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Calendar No. 181

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96-169

LEGISLATIVE COUNSEL
FILE COPY

# EXPORT ADMINISTRATION ACT OF 1979

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## REPORT

OF THE

## COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

## S. 737

TOGETHER WITH

## ADDITIONAL VIEWS

MAY 15 (legislative day, APRIL 9), 1979.—Ordered to be printed

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MAY 15 (legislative day, APRIL 9), 1979.—Ordered to be printed

Mr. STEVENSON, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

## REPORT

together with

## ADDITIONAL VIEWS

[To accompany S. 737]

The Committee on Banking, Housing and Urban Affairs, to which was referred the bill (S. 737), entitled the Export Administration Act of 1979, and S. 977, a bill to amend and extend the Export Administration Act of 1969, as amended, having considered the same, reports favorably on S. 737 with an amendment (and an amendment to the title) and recommends that the bill (as amended) do pass.

### HISTORY OF THE BILL

S. 737 was introduced in the Senate on March 22, 1979, and referred to the committee. S. 977 was introduced in the Senate on April 23, 1979, at the request of the Administration, and referred to the committee. Extensive committee hearings on export control policy preceded the introduction of legislation.

The committee held oversight hearings on October 10 and 11, 1978, on the use of export controls and export credits for foreign policy purposes. Testimony was heard from Senator Clifford P. Case, former Secretary of State Dean Rusk, former Under Secretary of State George Ball, and former Under Secretary of Defense David Packard, as well as other distinguished witnesses. The committee held further hearings on U.S. export control policy and extension of the Export Administration Act on March 5 and 6, and received testimony from the Secretary of Commerce, Juanita M. Kreps, the Comptroller General of the United States, Elmer B. Staats, the Under Secretary of State for Economic Affairs, Richard N. Cooper, the Under Secretary



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of Defense for Research and Engineering, William J. Perry, the Assistant Secretary of Treasury for International Affairs, C. Fred Bergsten, and the Assistant Secretary of Energy for Defense Programs, Duane Sewell.

Hearings were continued in the Subcommittee on International Finance on March 12, 1979, with testimony from the Governor of the State of Texas, William P. Clements, Jr., the Governor of the State of Georgia, George B. Busbee, and representatives from industry, labor organizations and Jewish groups. A hearing was also held in the International Finance Subcommittee on May 3, 1979, on S. 737 and S. 977. Testimony was received from the Assistant Secretary of Commerce for Industry and Trade, Frank Weil, and the Deputy Secretary of Energy, John F. O'Leary.

The committee met in open executive session on May 7, 1979, and agreed to report S. 737 with amendments.

## Purpose of the Legislation

The purpose of the legislation is to extend and revise the authority to control exports. Exports contribute significantly to U.S. production and employment, and improved export performance helps pay for expanding U.S. imports of oil and other commodities. There are circumstances, however, in which the economic benefits and the presumption against government interference with participation in international commerce by United States citizens are outweighed by the potential adverse effect of particular exports on the national security, foreign policy, or economy of the United States. This legislation would provide authority to control exports where necessary, but also would ensure that such authority is exercised with maximum efficiency and controls are confined to those necessary to achieve the purposes of the act.

## Need for the Legislation

This legislation is necessary to extend existing authority to regulate exports as provided in the Export Administration Act of 1969, as amended, which expires September 30, 1979, and to authorize appropriations to cover the expenses of administering the Act. This legislation is also necessary to improve the efficiency of export licensing and to provide for periodic and systematic review and revision of export control policy to insure that controls are achieving their intended purposes, are not excessive, and are focused on items for which export control is most important to the national interest.

Despite the intent of the Congress expressed in the Export Administration Act of 1969 and the Export Administration Amendments of 1977, export license decisions are frequently subject to lengthy delays lasting months beyond the 90 day period specified in the law. Interagency review is seldom accomplished expeditiously, although there have been recent improvements in reviews conducted by the Department of Defense. Reviews of foreign availability of items subject to export control are conducted separately by each agency, resulting in duplication of effort and unnecessary delays in processing applications.

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Furthermore, this legislation is needed to bring about appropriate and timely revision of the lists of goods and technology subject to export license control. The number of license applications received by the Department of Commerce is expanding rapidly, nearing an annual level of 80,000 applications per year. The increased applications reflect a failure to prune the control lists and to concentrate licensing requirements where they can be most effective. The Defense Science Board Task Force on Export of U.S. Technology recommended in a report released February 27, 1976, that export controls for national security purposes be focused upon retarding transfers of technology which could significantly enhance the military capability of potential adversaries. The Task Force report suggested that other controls, particularly on end products, could be reduced once effective controls on the transfer of militarily critical technology were in place. Three years after the Task Force report a critical technology approach has still to be devised and implemented. Failure to implement the Task Force report could result in controls which limit some exports unnecessarily while controlling insufficiently other exports which could be seriously detrimental to national security.

Finally, this legislation is necessary to foster consistency in U.S. export control policy and closer cooperation with allies. Uncertainty over U.S. policy toward the use of export controls for foreign policy purposes has discouraged potential exports and tarnished the reputation of U.S. exporters as reliable suppliers to foreign countries. Controls applied for foreign policy reasons often restrict the export of goods and technology freely available from foreign suppliers, often from our allies. Yet there is no evidence that the effects of such controls are receiving due consideration, nor that efforts are being made to obtain agreement by our allies to adopt similar restrictions on their exports.

## Explanation of the Legislation

S. 737 establishes a new export control statute, the Export Administration Act of 1979, superseding the Export Administration Act of 1969, as amended. S. 737 incorporates many of the provisions of the 1969 Act, but also makes extensive revisions and improvements in the authority to regulate exports.

### FINDINGS AND POLICY DECLARATION

S. 737 adds new findings and policy declarations to those contained in the 1969 Act, for the purpose of emphasizing the importance of exports to the United States economy and confining the use of export control authority to instances where controls are essential to: (a) prevent exports which would make a significant contribution to the military potential of any nation which would prove detrimental to U.S. national security, (b) further significantly U.S. foreign policy or fulfill declared international obligations, and (c) protect the domestic economy from excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand. S. 737 as introduced contained references to the "right to export". The Committee amended the bill to substitute the word "ability" for the word

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"right", noting that the word "right" could be misconstrued as denoting a constitutional or otherwise legally enforceable right to export free from government restriction, whereas the intention is to reinforce the strong presumption that citizens should be free to engage in international commerce except in instances where regulation is clearly needed to advance important public interests; in short, that validated license control of exports should be the exception not the rule.

The committee considered an amendment to delete the reference to "serious inflationary impact" in the authority to regulate exports for short supply purposes. The purpose of the amendment was to establish that the possible inflationary impact of exports should not be a sufficient condition for the imposition of controls in short supply situations. The Committee agreed that the inflationary effects of not imposing controls could be outweighed by the broader economic and foreign policy effects of imposing export controls, but was concerned that the amendment as proposed could lead to the opposite result by opening the possibility that controls could be imposed whenever there is "excessive drain of scarce materials" from the United States. Accordingly, the amendment was withdrawn.

The committee also discussed the policy stated in section 3(6), that U.S. export control requirements should be the subject of review by and consultation with representatives of the U.S. Government and private industry. The committee agreed that such consultations should include review of the desirability of continuing to subject certain exports to controlled countries to site visitation requirements. Periodic site visitations are one way by which it can be determined that an exported item is being put to its stated end use and not diverted to other applications. Site visitations are a burdensome expense for smaller firms and the committee urges consideration by the Department of Commerce of alternative, less expensive, ways to verify end use.

The bill as amended by the committee adds two subsections intended to improve export controls administered for national security purposes. A finding is made that such controls should give special emphasis to controlling exports of technology (and goods which contribute significantly to transfer of such technology) which could make a significant contribution to the military potential of any country which would be detrimental to U.S. national security. U.S. policy is declared to be to cooperate with nations with which the U.S. has defense treaties in order to restrict exports which would make a significant contribution to the military potential of any country which would prove detrimental to U.S. security and the security of countries with which the U.S. has defense treaties.

### AUTHORITY TO CONTROL EXPORTS

The bill contains the authority delegated to the President in the 1969 Act to control exports subject to U.S. jurisdiction or exported by any person subject to U.S. jurisdiction, including the financing, transporting and servicing of exports, to the extent necessary to carry out the policies set forth in section 3 of the bill. The committee considered an amendment to prohibit imposition of new controls on non-U.S.-origin exports of foreign subsidiaries of U.S. companies, except in international economic emergencies declared pursuant to section 202 of the

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International Emergency Economic Powers Act (91 Stat. 1626). The committee took note of a letter from the Department of State which said:

> This (provision) could prevent controlling exports from subsidiaries in order to increase the effectiveness of other controls, as was done at the behest of the Congress in the case of Uganda. New situations may arise where the United States would wish to distance itself from especially abhorrent acts of other Governments which would not, however, constitute emergencies for the United States. While controls on exports of subsidiaries have not been imposed pursuant to this Act, we believe it would be desirable for the President to retain flexibility in the current legislation.

The committee noted that the authority with respect to exports by persons subject to U.S. jurisdiction was included in a provision added to the Export Administration Act by section 301 of Public Law 95–223 (91 Stat. 1629) for the purposes of making permanent the emergency authority provided by section 5(b) of the Trading with the Enemy Act. The possible application of section 301 to nonemergency situations may not have been considered adequately by the Congress at the time the provision was adopted. The authority granted by section 301 of Public Law 95–223 has not been used by the President since adoption, although in the case of the Ugandan embargo the Congress by statute specifically required controls on exports by persons subject to U.S. jurisdiction. If Congress wishes to attempt to exert control in particular situations over wholly foreign exports of foreign subsidiaries of U.S. firms, Congress can do so by statute in the future as it has done in the past. The committee also recognizes that claims to U.S. jurisdiction over such exports are not likely to go unchallenged by the governments of the countries in which such subsidiaries are located. Nevertheless, the amendment was withdrawn pending further study of the issue.

### CONTROL OF MILITARILY CRITICAL TECHNOLOGY

S. 737 requires that export controls maintained for national security purposes be reviewed by the President every three years in the case of controls maintained cooperatively with other nations and every year in the case of unilaterally maintained controls, with respect to the countries to which such controls should apply. Priority in administering such controls is to be given to preventing exports of militarily critical goods and technology, and the Secretaries of Commerce and Defense are required to review and revise such controls to insure they are focused upon and limited, to the maximum extent possible consistent with the purposes of the bill, to militarily critical goods and technology and the mechanisms through which they may be effectively transferred. The Committee notes with approval the efforts toward that end underway within the Administration.

### REVIEW OF FOREIGN POLICY CONTROLS

S. 737 sets forth criteria to be considered by the President when imposing export controls for foreign policy purposes, including: (1) alternative means to further the foreign policy purposes in question; (2)



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the likelihood that foreign competitors will join the United States in effectively controlling such exports; (3) the probability that such controls will achieve the intended foreign policy purpose; (4) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology; (5) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and (6) the foreign policy consequences of not imposing controls. The bill also provides that the President shall report to Congress his reasons for imposing such controls, and that such controls must be reconsidered annually and extended by the President or expire automatically.

No aspect of U.S. export control policy received sharper criticism during Committee and Subcommittee hearings than controls maintained for foreign policy purposes. Former Under Secretary of State George Ball testified that "such controls should be used very sparingly," and that the granting of export credits of aid is a more effective political instrument than denying trade or credits:

> I think it's much easier to justify the granting than it is the withholding because it isn't—in the first place, the granting of credits is something bilateral between the United States and a foreign country and they don't depend on whether other countries go along or not. When you withhold credits, you may find other countries producing the money, or when you withhold trade you may find other countries continuing the trade. So the effect is nullified.
>
> Furthermore, the element of threat and therefore, the element of national pride is not engaged nearly as much when you're doing favors as when you're actually trying to impose some penalty on a country.

Former Secretary of State Dean Rusk testified that the United States should reconsider its attitude toward the use of export controls for foreign policy purposes:

> We should begin by reminding ourselves that trade occurs when it is of benefit to both parties. When we refuse to trade for security or political reasons, we should recall that we are depriving ourselves of the benefits of that trade, whether in the form of convertible currencies or goods and services which we ourselves need for our own national life. During the postwar decades when we were in a very strong trade position, many of us tended to think of trade as a "favor" which we were doing for someone else. That attitude is a luxury which we may not be able to afford with our present large trade deficit. We must turn the question around and ask ourselves what ought to be the policies and practices which justify denying ourselves the benefits of trade in a tumultuous and diverse world.
>
> When we look at the present world situation we can count about 30 countries which might be called constitutional democracies, whose institutions and attitudes toward political

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values are reasonably congenial to us. We can be very critical about some aspects of almost every one of the rest of the 150 nations in the international community. I would strongly advise against a drift into self-imposed economic isolationism by weighing trade in terms of approval or disapproval of the institutions of other trading nations.

Former Under Secretary of Defense David Packard testified:

The first point I want to make is that I do not believe these unilateral constraints are effective in changing the policies or the behavior of the targeted countries. In fact, I think the only thing such policies do is to guarantee the loss of business for the United States. I have no complaint with the goals—in fact, I think some emphasis on human rights is desirable. But I think the way to obtain movement in that direction is to maintain our export policy primarily on economic grounds and work behind the scenes with these countries with quiet, careful and intensive diplomacy, I think we will gain more by doing this than by getting out in front and making a big public issue. All we do when we do this is to embarrass people, and doing so is counterproductive.

I think in a number of cases it's clear that since our foreign policies reflect our sense of values, other countries are quite likely to resent them as being subjective. In the case of human rights, for example, not all agree with our emphasis on personal rights. A number of nations consider economic and social rights to be more important. And also, U.S. policies have not been applied consistently. We have very little economic leverage over some of them because of overriding reasons of national security.

Second, as George Ball has already brought out, our country is not a unique source of supply these days. Once U.S. exports are denied, the target country usually can and will obtain comparable products and services elsewhere. This is true with a good many countries around the world, particularly a number in South America and other areas that are not technically advanced. The kind of products these countries need to develop their economies are readily available from Japan, Western Europe and other places. The denial of U.S. exports really doesn't give us any economic leverage here and it's a mistake, I think, to believe it does.

I think there's a very big factor in going down this road, for denials and threat of denials will build suspicion and resentment. Under these circumstances, even if we relax our restraints later, the reputation of U.S. firms as unreliable suppliers will continue and much of the business will likely remain in the willing hands of our foreign competitors.

Other witnesses presented equally forceful assertions in defense of the use of export controls for foreign policy purposes, even in circumstances where the controls would not be effective in denying the target

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country the goods or technology in question. It was pointed out that export controls may be necessary to disassociate the United States from particularly abhorrent practices of certain foreign governments, or to demonstrate a moral and political commitment which could have substantial longer term benefits for the United States even if some short-run economic costs were entailed.

The Administration did not object to consideration of the factors mentioned in S. 737, but did object to their inclusion in the statute and to having to consider themselves in every case. The State Department indicated in a letter to the chairman, Senator Proxmire:

> Factors such as these are now taken into consideration. However, legislation would be undesirable because of the need for Executive Branch flexibility in reacting to extreme acts of other Governments contrary to our interests.

The committee noted that the provision as amended would not preclude the President from reacting promptly to extreme situations, nor prevent him from imposing or maintaining export controls regardless of his conclusions with respect to the factors listed, nor require a public report if the President decided a public report was not in the national interest. Public understandig of and support for export controls are important to the effective use of such controls, however. The provisions accepted by the committee, therefore, require the President to reconsider annually export controls maintained for foreign policy reasons, to consider all the ramifications of continuing or discontinuing such controls, and to report to Congress and, where appropriate, the public. The Committee noted that the provision did not establish criteria to be met but factors to be considered, and recognized that the President, having considered them, might find one or more of the factors irrelevant to a decision to impose or remove controls.

### REVIEW OF FOREIGN AVAILABILITY OF CONTROLLED ITEMS

S. 737 also requires that foreign availability of goods and technology subject to export controls be determined both with respect to controls maintained for foreign policy purposes and those maintained for national security purposes. If the goods or technology are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, the President shall not impose export controls unless he determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States. If the President decides to maintain export controls despite availability, he is required to initiate negotiations with other governments to try to remove such foreign availability.

The Department of State objected to the provision on the grounds that it could preclude the President from imposing export controls for foreign policy purposes in the face of foreign availability. A letter received from the State Department pointed out:

> We may wish to distance ourselves from extreme acts of other Governments, such as apartheid or the suspected development of a nuclear weapons capability, even if the only short-term trade effect of our controls might be to divert export sales to our competitors.

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The committee believes the State Department's concern is unwarranted. The bill merely requires the President to assess foreign availability and where it exists, determine whether he has adequate evidence that failing to control exports would be detrimental to U.S. foreign policy, and try to convince other exporting nations to join the United States in applying export controls. The provision will not preclude the use of export controls for foreign policy purposes despite foreign availability. The committee received testimony at its hearings on export control policy that in most instances in which controls have been applied for foreign policy reasons, foreign availability has not been assessed and no efforts have been made to encourage other governments to join in applying such controls. The committee concluded that the President should know whether foreign availability exists, and when he decides export controls are necessary nonetheless, try to eliminate such foreign availability.

While the committee amendments require an assessment of foreign availability in both foreign policy and national security cases, the committee does not intend that the issue of foreign availability necessarily be given the same weight in both situations. Obviously, the usefulness of export controls in national security cases is substantially vitiated to the extent the country in question can obtain comparable goods or technologies from a country other than the United States. However, the committee agrees with the Administration position that there may be legitimate foreign policy reasons for denying exports to a particular country even if the only short-term trade effects might be to divert sales to our competitors.

The bill provides for review and revision of export control lists on a periodic basis; three years in the case of controls maintained in cooperation with other nations and annually in all other cases. Assessments of foreign availability must be included in such reviews.

A capability for assessing foreign availability on a continuous basis is to be established in the Office of Export Administration within the Department of Commerce. The General Accounting Office has reported on the inefficiency and duplication of effort involved at present as each department or agency conducts its own review of foreign availability. GAO recommended that the responsibility for assessing foreign availability be centralized in a single office. S. 737 does so by placing that responsibility in the department primarily responsible for administering export controls, and by authorizing an appropriation exclusively for that purpose. The Committee is writing to the other appropriate committees of the Congress to call their attention to the provisions of S. 737 and suggest that funding for other departments and agencies currently conducting foreign availability assessments can be reduced once the capability within the Office of Export Administration becomes operational.

### SIMPLIFIED AND EXPEDITED EXPORT LICENSING PROCEDURES

S. 737 contains a number of provisions intended to simplify the export licensing process and insure prompt review of and action upon all export licenses received. Section 4(c) provides for the establishment of a new type of export license, a qualified general license, which could be used to permit multiple shipments to a particular consignee or for a specified end use. At present separate validated licenses are

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usually required for each shipment to controlled country destinations. The Committee believes the number of separate licenses required and the attendant paperwork and expense for both applicants and the Government can be greatly reduced without reducing the effectiveness of export controls, by the adoption of qualified general license requirements in place of validated license requirements whenever feasible and appropriate. Notwithstanding the provisions of section 4(c)(2), the Secretary of Commerce may require a validated license for the export of goods and technology, if export of such goods or technology pursuant to a general qualified license could prove detrimental to national security.

S. 737 sets forth a timetable for export license review and specifies information to be furnished to applicants at certain points in the review process. Within ten days after receiving an application the Secretary of Commerce shall determine whether the application is properly completed, whether it must be referred to another agency for review, and whether it must be referred to COCOM (the multilateral control agency maintained by the NATO countries, less Iceland, plus Japan), and so inform the applicant. A license must be issued or denied within 90 days in all cases where referral to another agency or COCOM is not required. Other U.S. Government agencies have 30 days to review an application and submit their views to the Commerce Department (except that they may have an additional 30 days upon request). All licenses shall be issued or denied by the Secretary of Commerce within 90 days of receipt of the views of other U.S. Government agencies, unless referral to COCOM is required. Applicants shall have an opportunity to respond to agency comments on an application before a decision is reached, and in the case of denial to be informed of the specific reasons for denial.

Special procedures apply to review by the Secretary of Defense of export licenses required for national security purposes. The Secretary of Defense may recommend to the President disapproval of a license on national security grounds, and if the President agrees with the Secretary of Defense, the license shall be disapproved. The provisions with respect to license reviews by the Secretary of Defense contain no substantive changes from those contained in section 4(h) of the Export Administration Act of 1969, as amended.

The license review procedures set forth in S. 737 assure the applicant that his application will be decided upon within 90 days if referral to other agencies or COCOM is not necessary and within a maximum of 180 days if referral to other agencies is required; however, no deadline is set for COCOM review. The applicant will be informed when the application has been approved subject to COCOM action.

The applicant may at his own discretion grant the Commerce Department additional time to review his application beyond the initial 90 days. The Committee understands that the Department of Commerce has agreed that applicants will be given opportunities to set time limits beyond the 90 day period; for example, an applicant may, if he wishes, set a limit of 150 days on the review of his application and the Department shall act upon the application within any period so designated. This opportunity, together with the definite timetable

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for interagency review, should reduce the length of time required to process applications and the number of complaints by applicants about applications languishing indefinitely within the Government bureaucracy.

RE-EXPORT CONTROLS

The Committee considered an amendment which would have further reduced export licensing requirements by prohibiting controls on re-exports of U.S. goods or technology from COCOM countries which control such exports in fact to the same extent the United States does. At present the United States requires a re-export license when a product originally from the United States is shipped from a COCOM country to a controlled country destination, even though the COCOM country also requires the exporter to obtain a license. The exporter must get two licenses: one from the United States and one from the COCOM country. The United States is the only COCOM member country to impose re-export control.

The Defense Department objected to the removal of re-export controls in a letter to the Committee which said:

> While we sympathize with the intent of this amendment, we have two concerns. First, it will be difficult to define exactly what 'in fact' and 'to the same extent' mean in practice. Second, the export control practices of another country may not remain constant. Yet under the proposed legislation we would have no legal remedy to respond to any loosening of such controls until exports damaging to our national security had already taken place.

The Committee finds the Defense Department's view to reflect a considerable lack of confidence in the COCOM arrangement, and was surprised by the suggestion that we may not know whether our allies control exports in fact to the same extent we do. The Committee decided to withdraw the amendment, but to write instead to the President requesting a thorough report with 90 days of: (1) any instances in which our COCOM partners do not in fact control exports on the COCOM list to the same extent the United States does; (2) the means by which the United States determines the extent to which our CO COM partners control exports in fact; (3) understanding and procedures applicable in case a COCOM partner chooses to loosen exports controls unilaterally; and (4) the reasons why no other COCOM nation applies re-export controls to shipments from other COCOM countries.

CRITERIA FOR MONITORING NON-AGRICULTURAL COMMODITY EXPORTS

S. 737 as amended by the Committee, at the suggestion of Senator Stewart, revises the criteria and reporting requirements for monitoring non-agricultural commodities in short supply situations. The bill requires the Secretary of Commerce to monitor such exports when the volume in relation to domestic supply: "contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on

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the economy, any sector thereof, or any industry or substantial segment thereof." The bill also requires collection of data on all contracts providing for the export of a commodity after a petition requesting monitoring or control of the export of that commodity is filed with the Secretary of Commerce. The provisions would, in effect, require retroactive collection of information from the date the Secretary decides to impose monitoring, in cases in which a petition precedes the decision to monitor.

PETITION AND HEARING PROCEDURE IN SHORT SUPPLY CASES

S. 737 establishes for the first time a formal, public petition and hearing procedure available to industry or union groups seeking controls or monitoring of exports of any material or commodity which the industry they represent "processes". All petitions filed in proper form must be published by the Secretary of Commerce in the Federal Register and any person can submit comments or request public hearings on the petition. If hearings are requested they must be held by the Secretary of Commerce within 45 days from the date of publication of the petition. The Secretary has 30 days after the close of the period for public comment and hearings to decide whether to impose monitoring or controls. If the Secretary decides to impose monitoring or controls, proposed regulations are to be published within 15 days and final regulations within 30 days thereafter. The Secretary may impose controls or monitoring on a temporary basis at any time.

The petition and hearing procedure was proposed by Senator Stewart and was discussed extensively during markup. Concern was expressed that the filing of petitions could precipitate panic ordering of the commodity or material in question, but the majority of the members of the Committee believe that once the procedure has been in effect for a period of time and it has been demonstrated that the filing of a petition does not necessarily result in a decision to impose monitoring or controls, the market is not likely to respond unduly to the mere filing of a petition.

EXPORT OF ALASKAN CRUDE OIL

S. 737 also contains provisions addressed to the export of Alaskan crude oil. The provisions in the Export Administration Act of 1969, as amended, which restrict such exports will expire on June 22, 1979, unless extended.

The Committee adopted a proposal by Senator Riegle establishing a new procedure and set of criteria limiting Alaskan oil exports, except in certain cases.

The amended bill prohibits the export of domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the Trans-Alaskan Pipeline Authorization Act, unless such crude oil is exported to an adjacent foreign state to be refined and consumed within that state in exchange for the same quantity of crude oil being exported from that country to the United States, and such exchanges would achieve lower oil prices through convenience or increased efficiency of transportation.

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Before the export of any Alaskan produced crude oil the President would be obliged to make, publish and report to the Congress an express finding that such crude oil exports: (1) would not diminish the total quality or quantity of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States; (2) would, within three months following the initiation of such exports and exchanges, result in (a) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil which is exported, and (b) at least 75% of such savings being reflected in reduced wholesale and retail prices of products refined from such imported crude oil; (3) would be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished; (4) are clearly necessary to protect the national interest; and (5) are in accordance with the provisions of the Act. Before exports could begin, Congress would have to approve the President's finding by concurrent resolution within 60 days after he submits such finding to the Congress.

The amendment allows crude oil to be exported pursuant to a bilateral international oil supply agreement entered into prior to June 25, 1979, or exported to a foreign nation with which the U.S. has entered into a multilateral supply arrangement pursuant to section 251 (d) of the Energy and Policy Conservation Act of 1975.

The Committee intends these exceptions for crude oil exportation undertaken pursuant to bilateral agreements to apply to any pledges made by the United States Government to Israel to guarantee, if necessary, crude oil supplies to that country.

The Committee further intends that the exception for any multilateral obligations undertaken pursuant to Section 251(d) of the Energy and Policy Conservation Act apply exclusively to the International Emergency Oil Sharing Plan of the International Energy Agency.

During the discussion of this amendment, the Committee found that domestic refining and crude oil transportation systems are inadequate to serve the production from the Alaskan North Slope ("ANS"). Despite assurances from producers—before, during and after completion of the Trans-Alaskan Pipeline—that increased West Coast refining capacity would be added to accommodate the influx of new crude oil, and that major East-West pipeline systems would be built, very little action has, in fact, been taken.

It was argued by opponents of the amendment that the only way to increase production from the ANS would be through exchange agreements with Japan and Mexico. These claims were made in spite of evidence that ANS production will be increased in 1979 and 1980 in response to the higher world prices for crude oil and without any decision to sell ANS oil abroad.

While it is true that the lack of efficient transportation facilities at present raise the cost of transporting Alaskan crude oil to markets in the Midwest, we do not see how an exchange with foreign nations would ameliorate this situation. The Committee feels that refinery capacity on the West Coast should be increased as soon as possible, and existing refinery configurations adapted to the use of ANS oil,



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especially in light of the recent severe shortages of gasoline in California and elsewhere. Furthermore, East-West pipelines, that have long been contemplated but never acted upon, should proceed without delay. This amendment will serve both as an incentive and inducement to take these necessary actions.

Enormous effort and attention surrounded the construction of the Trans-Alaskan Pipeline. The American people fully expected that production of oil from Alaskan fields would relieve some of our dependence on imported crude oil. The hazards of that dependence, which has actually increased since production began in Alaska, are vividly evident today in the shortages suffered in California and other areas. Proposals to export Alaskan oil, in exchange for Mexican or Persian Gulf crude oil, will not serve to reduce our need for imported oil. It should be recalled that the original proposals to exchange Alaskan crude oil with Japan involved Iranian oil, and events in that nation has illustrated the instability of our foreign crude oil supplies.

Once West Coast refining capacity is increased, and East-West pipelines are built, the United States will have a little more protection from the vagaries of international oil price increases and the attendant political and economic consequences. In view of this, the Committee feels that this amendment services a national purpose and will have a positive effect on efforts to rebuild our domestic petroleum infrastructure.

The Committee notes that there is currently a shortage of domestic refinery capacity for the productiton of unleaded gasoline, creating refinery supplies of high sulphur content, heavy crude oil, especially on the West Coast, and that there is a need for development of new refinery facilities in this area. The Committee, therefore, believes that in light of the policy embodied in S. 737, the Department of Commerce should, in carrying out its responsibilities under Section 4(g), review and revise, as necessary, those regulations concerning the export of petrochemical feedstocks, including naptha, refined in new or reconfigured refineries. For example, the Department should not interpret any provision in S. 737 in a manner that would preclude the export of petrochemical feedstocks, including naptha, if such export would facilitate the construction of a new refinery designed to produce unleaded gasoline or other light fuels, and if domestic markets for such products are not readily available or economically feasible. The Department should further take into account the need for such projects to receive commitments regarding the future issuance of export licenses.

### MISCELLANEOUS PROVISIONS

S. 737 carries over from the Export Administration Act of 1969, as amended, a number of specific export control provisions without change, including: (1) a provision exempting certain petroleum products refined in U.S. Foreign Trade Zones or Guam from short supply controls; (2) authority to impose license fees; (3) a prohibition on the export of horses by sea for slaugher; and (4) a provision stating that nothing in the Act requires persons to obtain authority to export except where the President has so required in order to carry out the policies set forth in the Act.

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AGRICULTURAL COMMODITIES

S. 737 revises provisions concerning the export of agricultural commodities which are contained in the present Act. S. 737 adds a requirement that the President, before resorting to export controls, consider using the Commodity Credit Corporation as the exclusive sales agent for sales to foreign governments in order to stabilize markets and maximize returns to agricultural producers. The Committee believes that in circumstances in which purchases by foreign governments are the principal cause of a tight supply situation for a particular agricultural commodity, it may be preferable to have the CCC take over sales to that country than to apply comprehensive export controls on sales of the commodity in question. S. 737 also deletes a provision permitting Congress to disapprove by concurrent resolution decisions to control the export of agricultural commodities. The Committee notes that the bill as ordered reported contains no legislative veto provisions enabling Congress to override the President's decision to impose controls.

DELEGATION OF AUTHORITY

S. 737 authorizes the President to delegate authority provided under the Act to such departments, agencies, or officials as he chooses, but not to any official of any department or agency whose head is not appointed by and with the advice and consent of the Senate. The Committee intends the provision to apply in particular to the staff of the National Security Council who are reported to have been assigned a role in formulating export control policy and in reviewing particular export license applications. The expanded role of the NSC staff in export licensing and export control policy has frustrated effective Congressional oversight because the officials refuse to testify before Congress and the memoranda and papers prepared by the NSC staff are not available to the Congress. The Committee notes in particular that Presidential Review Memorandum Number 31, which was prepared by the NSC staff and purportedly sets forth comprehensive policy recommendations on East-West technology transfer has not been made available to the Congress.

REPORTING OF TECHNICAL COOPERATION AGREEMENTS

S. 737 incorporates two new subsections proposed by the Administration. One would require U.S. firms entering into commercial agreements with controlled country governments to transfer technical data to report such agreements to the Commerce Department. Educational institutions are excluded from the requirement. The purpose of the provision is to enable the United States Government to know when, with whom and on what subjects such agreements have been concluded.

ADMINISTRATION OF U.S. PARTICIPATION IN COCOM

A second new subsection incorporates authority for the Secretary of State to continue to act as the administrator for United States participation in COCOM. This provision and others in S. 737 supersede the Mutual Defense Assistance Control Act of 1951 (the "Battle

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Act") which provides for U.S. participation in COCOM and incorporates provisions pertaining to such participation into S. 737. Other provisions of the Battle Act are now obsolete.

### COCOM NEGOTIATIONS

The Committee amended S. 737 to add a provision proposed by Senator Tsongas requiring the President to negotiate with the other COCOM members for the purpose of reaching agreement: (1) to publish the COCOM control list; (2) to hold periodic high-level meetings on export control policy; (3) to modify controls to obtain full acceptance and enforcement by COCOM members and (4) to adopt more effective enforcement procedures. The President would further be required to report annually to Congress on the progress of such negotiations.

### INDEXATION OF CONTROLLED EXPORTS

The Committee also amended S. 737 to add a provision proposed by Senator Tsongas authorizing the Secretary of Commerce to provide for annual increases in the performance levels of goods or technology subject to controls in order to periodically remove obsolete controls. The Secretary is directed to give consideration as well to removing site visitation requirements on items removed from the control list.

### FOREIGN BOYCOTTS

S. 737 contains all the antiboycott provisions of the Export Administration Act of 1969, as amended, and makes no changes in those provisions. The Committee received letters from major business organizations and Jewish groups recommending that no change be made in the boycott provisions this year. S. 737 does incorporate at the end of vision enacted as section 205 of the Export Administration Amendments of 1977, P.L. 95–52. The Committee thought it advisable for convenience of reference to include the pre-emption section in the Export Administration Act of 1979, although no change in legal effect is involved.

### HARDSHIP RELIEF

S. 737 retains without change the procedures for hardship relief from export controls contained in the Export Administration Act of 1969, as amended.

### CONSULTATIONS AND STANDARDS

S. 737 retains with only minor changes the provisions concerning consultations and standards contained in the Export Administration Act of 1969, as amended. S. 737 would require the Secretary of Commerce to investigate and report upon any certification of foreign availability of goods or technology subject to export control, if a technical advisory committee made such certification. If the Secretary agrees that foreign availability exists, the Secretary is required to submit a recommendation to the President regarding termination or continuation of export controls on such goods or technology.

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VIOLATIONS

Penalties for violation of the Export Administration Act or regulations, orders, or licenses issued thereunder are increased by S. 737. The present Act provides lighter criminal penalties for first violations of the Act or its regulations than for second offenses. The Committee knows of no valid reason for this distinction between first and second violations and, therefore, has amended S. 737 to remove the distinction.

Upon the recommendation of the Administration, criminal penalties for willful violations of the Act or regulations involving knowingly violating controls on exports to countries to which exports are restricted for national security purposes or foreign policy purposes are increased to fines of not more than $100,000 or five times the value of the exports, whichever is greater, or up to ten years imprisonment, or both. The penalties thus provided would be identical to those provided in the Arms Export Control Act for similar violations. Other knowing violations are punishable by fines of up to $50,000 or five times the value of the exports, whichever is greater, or up to five years imprisonment, or both. The bill also contains provisions for civil penalties of up to $10,000 for each violation, and suspension or revocation of authority to export.

ENFORCEMENT

The enforcement provisions of S. 737 are the same as in the present Act except for revision of provisions concerning confidential information. S. 737 clarifies the exemption of information required to be furnished pursuant to the Act, other than boycott-related information, from the disclosure requirements of the Freedom of Information Act. The Committee believes such exemption already exists as a matter of law, but to avoid the public expense of contesting nuisance lawsuits has included appropriate provisions in S. 737 and restates the intention of the Congress in adopting the Export Administration Amendments of 1977: except where Congress has expressly provided otherwise in the Export Administration Act of 1969, as amended, or in this legislation, information required to be furnished to the Government shall not be disclosed unless the Secretary of Commerce determines that to withhold such information is contrary to the national interest. The Committee does not believe it is in the public interest to require the disclosure to foreign and domestic competitors of U.S. firms such information as the precise value, nature, parties to the transaction and shipping date of exports by such firms, where the sole reason such information is provided to the United States Government is that the information is required by statute in order to receive an export license.

EXEMPTION FROM ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

S. 737 as amended by the Committee continues the exemption of all functions exercised under the Act from the Administrative Procedure Act and from judicial review. S. 737 does state the intent of Congress, however, that export control regulations be issued in preliminary form for public comment whenever practicable, and if issued with immediate effect that a public comment period be provided and the regulation be re-issued subsequently in final form. The Secretary of Commerce is

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required to report to Congress on every case in which the issuance of regulations in preliminary form was not deemed practicable. The Committee intends that regulations be issued in proposed form except in emergency situations, and that the waiver of such issuance of proposed regulations not be used for the mere convenience of the Government.

ANNUAL REPORT

S. 737 provides for an annual report in place of the semiannual report required by the present Act. The semiannual reports have not been presented to the Congress as required by law. The Commerce Department apparently has assigned a low priority to preparation of reports to Congress. The Committee believes the annual report requirement contained in S. 737 is reasonable; it believes the reports are essential to the proper exercise by the Congress of its oversight responsibilities; and it expects to have received all reports required by this Act in complete and timely form before the Committee acts upon any future legislation to authorize appropriations to administer this Act.

DEFINITIONS

S. 737 adds to the definition of "person" and "United States person" in the present Act definitions of "goods" and "technology". The definition of technology in S. 737 is intended to encompass everything contained within the term "technical data" and "technical services" as defined by regulation under the Export Administration Act of 1969, as amended.

EXTENSION OF AUTHORITY TO REGULATE EXPORTS AND AUTHORIZATION OF APPROPRIATIONS

S. 737 provides a four year extension of export control authority from September 30, 1979 to September 30, 1983, but only authorizes appropriations to the Commerce Department to meet the expenses to administering export controls in fiscal year 1980. The Committee believes annual authorizations are both appropriate and necessary for the Committee to maintain close oversight of export control policy and to amend as necessary the authority provided by this bill.

PROVISIONS DELETED FROM THE 1969 ACT

S. 737 does not carry over from the Export Administration Act of 1969, as amended, certain provisions found to be duplicative or no longer necessary. Section 9 of the present Act is deleted because the information required to be furnished to exporters by its terms is required to be furnished to exporters by other provisions in the 1969 Act and in S. 737. No reduction in the information required to be furnished to exporters is authorized by deletion of section 9.

Subsection 7(e) of the 1969 Act, as amendeed, provides for consultation by the Secretary of Commerce with representatives of other Government agencies and business on ways to simplify export controls and requires a report to Congress by June 22, 1978. The report has been received and the Commerce Department has taken some actions to

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simplify export controls. More can be done, however, and S. 737 includes a provision (which is subsection 7(d) of the present Act) which requires continuous effort to reduce reporting, recordkeeping and export documentation requirements. The Committee intends that this provision be understood to require the Commerce Department to engage in a continuous effort to simplify all aspects of export controls and to consult with other Government agencies and the technical advisory committees for such purpose.

S. 737 deletes the embargo on exports to Uganda which was added to the Export Administration Act by a provision in the Bretton Woods Agreements Amendments of 1978. The Senate has already acted separately to repeal this provision.

S. 737 also deletes the statutory prohibition on the export of crime control and detection instruments and equipment to countries other than NATO countries, Japan, Australia and New Zealand, except pursuant to validated license. The provision was added by the International Security Assistance Act of 1978, although the Department of Commerce had already imposed validated license control over such exports by regulation. The purpose of the provision was to enable the United States Government to prevent the export of equipment to policy and military entities which might use the equipment to commit gross violations of human rights.

The Committee supports the objective the statutory provision seeks to serve, but believes regulatory action can more efficiently and flexibly serve that objective once Congressional intent has been established, as it has in this case. The Commerce Department, working closely with the State Department, should establish the appropriate scope of control. It is unlikely, for example, that the authors of the statutory provision intended to require validated licenses for U.S. exports of crime control and detection instruments and equipment to Sweden, Switzerland and Austria, although that is the effect of the present statutory provision.

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## SECTION-BY-SECTION-ANALYSIS

### TITLE

Section 1 of the bill would provide that the bill may be cited as the "Export Administration Act of 1979".

### FINDINGS

Section 2(1) would state a finding by Congress that the ability of U.S. citizens to engage in international commerce is a fundamental concern of U.S. policy.

Section 2(2) would state a finding by Congress that exports contribute significantly to the U.S. trade balance, employment and production.

Section 2(3) would state a finding by Congress that the availability of materials varies so that U.S. exports and their distribution among importing countries may affect the welfare of the U.S. domestic economy and have an important bearing upon U.S. foreign policy.

Section 2(4) would state a finding by Congress that exports without regard to whether they make a significant contribution to the military potential of foreign countries may adversely affect U.S. national security.

Section 2(5) would state a finding by Congress that restriction of U.S. exports can have serious adverse effects on the balance of payments and domestic employment, particularly when restrictions are more extensive than those imposed by other countries.

Section 2(6) would state a finding by Congress that uncertainty of export control policy can curtail efforts of American business to the detriment of attempts to improve the U.S. trade balance and reduce unemployment.

Section 2(7) would state a finding by Congress that unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

Section 2(8) would state a finding by Congress that it is important that the administration of national security export controls give special emphasis to controlling exports of technology and related goods which could make a significant contribution to the military potential of foreign nations which would be detrimental to U.S. national security.

### DECLARATION OF POLICY

Section 3(1) would declare U.S. policy to be to minimize uncertainties in export control policy and encourage trade except with countries with which the President has determined trade to be against the national interest.



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Section 3(2) would declare U.S. policy to be to restrict exports only after full consideration of the impact on the U.S. economy and only to the extent necessary: (A) to prevent exports of goods and technology which would make a significant contribution to the military potential of foreign nations which would prove detrimental to U.S. national security; (B) to further significantly U.S. foreign policy or fulfill its declared international obligations; and (C) to protect the domestic economy from the excessive drain of scarce materials and reduce the serious inflationary impact of foreign demand.

Section 3(3) would declare U.S. policy to be (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the U.S. has defense treaties.

Section 3(4) would declare U.S. policy to be to use its economic resources and trade potential to further sound growth and economic stability as well as its national security and foreign policy objectives.

Section 3(5) would declare U.S. policy to be to (A) oppose boycotts of countries friendly to the U.S.; (B) encourage and require U.S. exporters to refuse to take actions, including furnishing information, which further or support such boycotts; and (C) foster international cooperation, rules and institutions to assure reasonable access to world supplies.

Section 3(6) would declare U.S. policy to be to have Government and industry representatives review and consult on the desirability of subjecting or continuing to subject particular goods or technology to U.S. export controls.

Section 3(7) would declare U.S. policy to be to use export controls, including license fees, to secure removal of foreign restrictions on access to supplies under certain circumstances, and require the President to make every reasonable effort to secure access through international cooperation before imposing controls; and exempt medicine or medical supplies from controls adopted pursuant to section 3(7).

Section 3(8) would declare U.S. policy to be to use export controls to counter international terrorism and require the President to make every reasonable effort to counter terrorism through international cooperation before imposing controls.

Section 3(9) would declare U.S. policy to be to cooperate with nations with which the U.S. has defense treaties to restrict exports which would make a significant contribution to the military potential of any country which would prove detrimental to U.S. security and the security of countries with which the U.S. has defense treaties.

### AUTHORITY

Section 4(a)(1) would authorize the President to control exports subject to U.S. jurisdiction or by any person subject to U.S. jurisdiction, and the financing, transporting, and servicing thereof, to the extent necessary to carry out the policies set forth in section 3. When controlling exports for short supply reasons the President is authorized to allocate some licenses on the basis of factors other than prior exporting history.



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Section 4(a)(2)(A) would require U.S. export control policy toward individual countries not to be based exclusively on whether or not a country is Communist, but to take into account the country's present and potential relationship to the U.S. and to countries friendly or hostile to the U.S., its ability and willingness to control retransfers of U.S. exports, and such other factors as the President deems appropriate. Such policy would be required to be reviewed every three years in the case of multilateral controls and annually in the case of all other controls.

Section 4(a)(2)(B) would authorize the President to prohibit any export which would make a significant contribution to the miiltary potential of any nation which could prove detrimental to U.S. national security. Priority would be required to be given to preventing effective transfer to such countries of militarily critical goods and technology. The Secretary of Commerce, in consultation with the Secretary of Defense, would be required to revise such controls every three years in the case of multilateral controls and annually in the case of unilateral controls to insure that such controls are limited, to the maximum extent possible consistent with the purpose of the bill, to military critical goods, technology and transfer mechanisms.

Section 4(a)(2)(C) would provide for expiration on December 31, 1979, or one year after imposition of export controls maintained for foreign policy purposes unless the President extends such controls in accordance with this paragraph. When imposing, increasing, or extending such controls, the President would be required to consider: (i) alternative means to further the foreign policy purposes in question; (ii) the likelihood that foreign competitors will apply similar controls; (iii) the probability the controls will achieve the intended foreign policy purposes; (iv) the economic effects of the controls; (v) the reaction of other countries; and (vi) the foreign policy consequences of not imposing controls.

Section 4(a)(2)(D) would require the President inform the Congress within 30 days of imposing, increasing, or extending export controls for foreign policy purposes and to the extent consistent with the national interest, make public a report specifying his conclusions with respect to the considerations listed in section 4(a)(2)(C).

Section 4(a)(2)(E) would prevent the imposition of export controls for national security or foreign policy reasons when the goods or technology are available without restriction from sources outside the U.S. in significant quantities and comparable in quality to those produced in the U.S., unless the President determines adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to U.S. foreign policy or national security. If he so determines, the President would be required to initiate negotiations with foreign governments to try to eliminate such availability.

Section 4(b)(1) would authorize the Secretary of Commerce to reorganize the Commerce Department to carry out the policies set forth in this bill, and require the Secretary to maintain an export control list and review such list every three years in the case of multilateral controls and annually in the case of unilateral controls. The Secretary would be required to include in each control list review

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assessments of the foreign availability of goods and technology on the list. The Secretary would be required to establish in the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control. The Secretary would be required to meet regularly with business sector representatives and obtain their views on export control policy and foreign availability, and to keep the public fully informed of changes in export control policy and procedures.

Section 4(c) would require the Secretary of Commerce to establish at least three types of export licenses: (i) validated, (ii) qualified general, and (iii) general—in addition to such other licenses as the Secretary may establish. Validated licenses would be required primarily for exports subject to COCOM controls; qualified general licenses would be used primarily for multiple shipments to particular consignees or end uses in controlled countries; and general licenses would authorize exports without specific approval if in accordance with certain regulations issued pursuant to this legislation. The Secretary of Commerce would be required to establish qualified general license procedures within 60 days after enactment of this bill.

Section 4(d) would establish export license review procedures which would: (1) require all applications to be submitted to the Secretary of Commerce and require the Secretary to make all determinations with respect to such licenses in accordance with the procedures set forth in subsection 4(d); (2) express the intent of Congress that the Secretary make determinations on applications to the maximum extent possible without referral to other agencies; (3) require the Secretary to seek information and recommendations from other appropriate agencies as necessary and require such agencies to cooperate fully; (4) require the Secretary within ten days after receiving an application to acknowledge receipt, send a description of licensing procedures to the applicant, return any incomplete application with information on proper completion and resubmission, determine whether referral to other agencies is necessary and so inform the applicant, and determine whether referral to COCOM is necessary and so inform the applicant; (5) require the Secretary to issue or deny within 90 days any license not requiring referral to another agency, unless the applicant specifically requests additional time for the Commerce Department to review the application; (6) require the Secretary to submit applications requiring review by other agencies to such agency within 30 days of receipt, affording the applicant an opportunity upon request to review the accuracy of the documentation submitted to other agencies; (7) require any agency to which the Secretary refers an application to return its views within 30 days, or 60 if the agency requests additional time, and authorize the Secretary to deem such agency to have no objection to approval of the license if the agency fails to respond within the specified period; (8) require the Secretary to issue or deny any license requiring interagency referral within 90 days of receiving the views of the other agency or agencies, unless the applicant specifically requests additional time for review of the application; (9) require the Secretary to inform the applicant of questions and objections to approval of the application raised by other agencies and accord the applicant an opportunity to respond in writing before a final decision

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is made; (10) inform the applicant of specific reasons for denial, to the maximum extent consistent with U.S. national security or foreign policy; (11) authorize the Secretary of Defense to review any exports controlled for national security reasons and, whenever he determines the export will make a significant contribution to the military potential of any country which would prove detrimental to U.S. national security, recommend to the President disapproval of the export; (12) authorize the Secretary of Defense to determine in consultation with the Secretary of Commerce which licenses must be reviewed by the Secretary of Defense and require the Secretary of Defense to make a recommendation within 30 days of receipt of an application; (13) prohibit the Secretary of Commerce from issuing an export license if the President notifies the Secretary within 30 days after receiving the Secretary of Defense's recommendation, that he disapproves such export; (14) require the Secretary of Commerce to notify the applicant of approval of a license subject to COCOM review; and (15) require all agencies to keep accurate records with respect to all export applications.

Section 4(e) would require the Secretary of Commerce to monitor exports and export contracts of any non-agricultural goods when the volume in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, any sector thereof, or any industry or substantial segment thereof. Monitoring would be required to commence early enough to provide sufficient data for the purposes of the bill and to include data following the date of a petition filed under section 7(a)(1). Weekly monitoring reports would be required unless the Secretary determines information is only sufficient for monthly reports.

Section 4(f) would authorize the President to impose export license fees when imposing controls pursuant to section 3(2)(C) of this bill.

Section 4(g) would prohibit the export of domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to the Trans-Alaska Pipeline Authorization Act (except when swapped for convenience or transportation efficiency with an adjacent foreign state or temporarily exported across such state) unless the President makes and publishes an express finding that such exports: (i) will not diminish U.S. refined petroleum supplies; (ii) will result within 3 months in lower acquisition costs to refiners for imported crude and reduced wholesale and retail prices of products refined from such imported crude; (iii) will be made only pursuant to contracts which may be terminated if U.S. crude supplies are interrupted, threatened, or diminished; (iv) are clearly necessary to protect the national interest; and (v) are in accordance with the bill's provisions. Notwithstanding the foregoing, the President would be authorized to export oil to any foreign nation with which the U.S. has a bilateral international oil supply agreement prior to May 1, 1979 or with which the U.S. has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act.

Section 4(h) would exclude petroleum products refined in U.S. Foreign Trade Zones or Guam from export controls imposed pursuant to section 3(2)(C), unless the Secretary of Commerce finds a product to be in short supply.

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Section 4(i) would prohibit export controls pursuant to this bill on any agricultural commodity, including fats, oils, animal hides and skins, unless the Secretary of Agriculture approves such controls. The Secretary of Agriculture would not be authorized to approve such controls during any period he determined the supply of such commodity to be in excess of the requirements of the domestic economy, unless the President determines controls are needed for national security or foreign policy reasons. The Secretary of Agriculture would not be authorized to approve such controls unless he has given full consideration to the alternative of using the Commodity Credit Corporation ("CCC") to purchase such commodity and arrange sales to foreign governments so as to stabilize markets and maximize returns to agricultural producers, and determined controls are preferable to such use of the CCC. Agricultural commodities purchased for future export could be stored in the U.S. and exported later with the approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, under specified conditions.

Section 4(j) would provide that nothing in this bill or rules or regulations issued thereunder shall be donstrued to require authority or permission to export, except where required by the President to achieve the policies set forth in section 3 of this bill.

Section 4(k) would authorize the President to delegate his authority under this bill to such Government departments, agencies, or officials as he chooses, but not to any official of a department or agency whose head is not appointed with the advice and consent of the Senate.

Section 4(l) would require any U.S. firm agreeing with a foreign government agency to which exports are restricted for national security purposes to report such agreement to the Secretary of Commerce if it cites an intergovernmental agreement encouraging technical cooperation and is intended to result in the export from the U.S. of unpublished technical data. The requirement would not apply to educational institutions.

Section 4(m) would authorize the Secretary of State, in consultation with the Secretaries of Defense and Commerce, to negotiate with other countries to restrict exports.

Section 4(n) would require the President to negotiate with other COCOM nations for the purpose of reaching agreements to (1) publish COCOM control lists and related information; (2) hold periodic high-level meetings to provide guidance on export control policy to COCOM; (3) modify COCOM export controls to a level accepted and enforced by all participating governments; and (4) adopt more effective export control enforcement procedures.

Section 4(o) would authorize the Secretary of Commerce to provide for annual increases in the performance levels of controlled goods or technology in order periodically to remove obsolete controls, unless another Government agency objects to such removal and the Secretary determines, on the basis of such objection, not to decontrol the goods or technology. The Secretary would be required to consider removing site visitation requirements for decontrolled items.

Section 4(p) would prohibit the export of horses by sea for slaughter unless the Secretary, in consultation with the Secretary of Agriculture, determined that no horse in a particular consignment was being exported for purposes of slaughter.

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FOREIGN BOYCOTTS

Sections 5(a) and 5(b) contain the antiboycott provisions adopted in the Export Administration Amendments of 1977, P.L. 95–52, and which appear as sections 4A(a) and (b) of the Export Administration Act of 1969, as amended. No changes are made in those provisions and they need not be described in detail here.

Section 5(c) could repeat in this bill the provision in section 205 of P.L. 95–52 which states that the anti-boycott provisions preempt any law, rule, or regulation pertaining thereto of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

Section 6 would repeat without change the provisions of the present section 4B of the Export Administration Act of 1969, as amended, which enable persons suffering unique hardship due to export controls to petition the Secretary of Commerce for relief from such controls. The Secretary would be required to grant or deny relief within 30 days, having considered a list of factors set forth in the bill.

PETITIONS FOR MONITORING OR CONTROLS

Section 7 would enable any entity representative of an industry or substantial segment of an industry processing any material or commodity to petition the Secretary of Commerce requesting controls or monitoring of such exports. The Secretary would be required to publish the petition in the Federal Register within 15 days and invite public comment for 30 days after publication. At the request of any person the Secretary would be obliged to hold public hearings on the petition, in which case the 30 day period would be extended to 45 days. The Secretary would be required to decide within 30 days thereafter whether to impose monitoring, or controls, or both. If the Secretary decides to impose monitoring or controls, proposed regulations would have to be published within 15 days after such decision and final regulations 30 days thereafter. The Secretary would have authority to impose monitoring or controls on a temporary basis anytime after a petition is filed.

CONSULTATION AND STANDARDS

Section 8(a) would require consultation between concerned and affected Government agencies regarding export control policies, and would require the President to consult with private industry. The Secretary of Commerce would be required to consult with the Secretary of Energy to determine whether to impose short supply controls on energy equipment exports.

Section 8(b) would require the encouragement of the use of private competitive trade channels, including small business, merchant exporters as well as producers, and established and new

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exporters, in authorizing exports under controls applied pursuant to this bill.

Section 8(c) would authorize the Secretary of Commerce to appoint technical advisory committees ("TACs") composed of representatives of U.S. industry and government knowledgeable with respect to particular groupings of goods or technology, for the purpose of obtaining their advice on export control policy matters including technical matters, foreign availability, licensing procedures, and proposed revisions in COCOM controls. The Secretary of Commerce would be authorized to reimburse TAC members for expenses. Each TAC would be required to meet at least every 3 months and would terminate after two years unless extended by the Secretary for another two years. The Secretary would be required to disclose to TACs adequate information on export control policy, consistent with national security and foreign policy, to facilitate their work. Whenever a TAC certifies that foreign availability sufficient to render U.S. controls on particular goods or technology ineffective exists, the Secretary shall investigate and report to the TAC on whether the Secretary concurs, and if so, submit a recommendation to the President.

VIOLATIONS

Section 9 of the bill would provide maximum fines of five times the value of the exports involved or $50,000, whichever is greater, or imprisonment of up to five years, or both for knowingly violating any provision of this bill or regulation issued thereunder. Willful exports contrary to the bill or regulations, with knowledge such exports will benefit a country to which exports are restricted for national security or foreign policy purposes, are punishable by fines up to five times the value of the exports involved or $100,000, whichever is greater, or up to ten years imprisonment, or both. Civil penalties up to $10,000 for each violation of this bill would be authorized by administrative procedure, as would suspension or revocation of authority to export. Procedures would be established for imposing administrative sanctions, collecting fines, and bringing civil actions for payment of fines.

ENFORCEMENT

Section 10(a) would authorize investigations, inspections and subpoenas of records as necessary to enforce this bill.

Section 10(b) of the bill would provide that no person be excused from complying with any requirements of section 10 because of his privilege against self-incrimination, however the immunity provisions of the Compulsory Testimony Act (49 U.S.C. 46) would apply if specifically claimed.

Section 10(c) would provide that confidential information obtained under the bill be exempt from disclosure unless the Secretary determines withholding such information is contrary to the national interest. Nothing in the bill would authorize withholding any information from committees or subcommittees of Congress of appropriate jurisdiction.

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No such committee or subcommittee would be authorized to disclose confidential information unless the full committee determined withholding the information to be contrary to the national interest.

Sectio 10(d) would require that reporting requirements under the bill be designed so as to minimize cost and inconvenience, and be periodically reviewed and revised, to the extent feasible consistent with effective enforcement and compilation of useful trade statistics.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Section 11(a) would exempt functions exercised under this Act, except administrative proceedings under section 9(c)(2) concerning administrative sanctions, from the operation of the Administrative Procedure Act, sections 551, 553 through 559, and 701 through 706 of title 5, U.S.C.

Section 11(b) would express the intent of Congress that regulations be issued in proposed form for public comment whenever practicable, and that where regulations are issued with immediate effect, a public comment period be provided and the regulations re-issued thereafter in final form. The Secretary would be required to include in annual reports to Congress a detailed accounting of cases in which regulations were not issued in proposed form prior to taking effect.

ANNUAL REPORT

Section 12 would require the Secretary of Commerce to make annual reports to Congress, would specify the content of such reports, and would require other departments and agencies to cooperate fully with the Secretary in the preparation of such reports.

DEFINITIONS

Section 13 would define the terms: "person", "United States person", "goods", and "technology" for the purpose of the bill.

EFFECTS ON OTHER ACTS

Section 14 would provide that the Act of February 15, 1936 (49 Stat. 1140), concerning tinplate scrap and the Mutual Defense Assistance Act of 1951, as amended (22 U.S.C. 1611–1613d), be superseded. The President would be required to exercise authority under this bill in coordination with authority, exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

AUTHORIZATION OF APPROPRIATIONS

Section 15(a) would prohibit any appropriation to the Commerce Department for expenses to carry out the purposes of the bill for any fiscal year after fiscal year 1980, unless previously and specifically authorized by legislation.

Section 15(b) would authorize appropriations to the Commerce Department of $8 million (plus necessary amounts for increases in

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salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal year 1980 to administer the bill, of which $1.25 million is to be used exclusively to establish the capability to make foreign availability assessments called for by section 4(b)(1).

EFFECTIVE DATE

Section 16 would provide that this bill take effect upon expiration of the Export Administration Act of 1969 (September 30, 1979), and that all outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), or the Export Administration Act of 1969, shall remain in force until amended or revoked.

TERMINATION DATE

Section 17 would provide that authority granted by this bill terminate September 30, 1983, unless terminated earlier by Presidential proclamation.

FISCAL IMPACT STATEMENT

In accordance with section 252(a) of the Legislative Reorganization Act of 1970, the Committee estimates the bill will result in additional outlays during fiscal year 1980 of $7,600,000. This concurs with the estimate prepared by the Congressional Budget Office, which follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
*Washington, D.C., May 15, 1979.*

Hon. WILLIAM PROXMIRE,
*Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 737, the Export Administration Act of 1979.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MAY 15, 1979.

1. Bill number: S. 737.
2. Bill title: Export Administration Act of 1979.
3. Bill status: As ordered reported by the Senate Committee on Banking, Housing and Urban Affairs, May 7, 1979.
4. Bill purpose: This bill grants authority to the Department of Commerce (DOC), in conjunction with other departments and agencies, to regulate exports, improve the efficiency of export regulation, and to minimize any adverse impact of trade regulation on the United



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States business community. The bill also authorizes the DOC's Bureau of Trade Regulation to administer the anti-boycott compliance program. It would establish within the Office of Export Administration the capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control.

S. 737 authorizes appropriations of $8 million in fiscal year 1980, of which $1.25 million is for the sole purpose of establishing and maintaining foreign availability assessments. In addition, it authorizes additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

The authorization level for fiscal year 1978 and 1979 combined was $14 million. The authorization level specified in the bill for fiscal year 1980 exceeds the President's 1980 budget request by $0.9 million.

5. Cost estimate:

[By fiscal years; in millions of dollars]

| | 1980 | 1981 | 1982 | 1983 | 1984 |
|---|---|---|---|---|---|
| Estimated authorization level: | | | | | |
| Function 370 | 8.0 | | | | |
| Function 920 | .4 | | | | |
| Total | 8.4 | | | | |
| Estimated outlays: | | | | | |
| Function 370 | 7.2 | 0.8 | | | |
| Function 920 | .4 | | | | |
| Total | 7.6 | .8 | | | |

6. Basis of estimate: For the purpose of this estimate, it is assumed that the full amount authorized for fiscal year 1980 will be appropriated prior to the beginning of the year. In addition to the $8 million specifically authorized, it is estimated that an additional $0.4 million will be required for employee pay and benefits as authorized in the bill. This figure was estimated at 5.5 percent of the authorized pay and benefit levels.

Outlays were estimated based on historical spendout rates for all but the $1.25 million specifically allocated for monitoring foreign goods and technology. It is assumed that some new staff will be required to perform this function, and therefore outlay rates for the $1.25 million were adjusted downward to allow for phasing-in of the new program.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 14, 1979, the Congressional Budget Office prepared a cost estimate for H.R. 4034, the House version of the Export Administration Act Amendments of 1979. Title I of H.R. 4034 authorized to be appropriated an estimated $7.5 million in fiscal year 1980 and an estimated $8.4 million in fiscal year 1981 for this purpose. It did not earmark funds specifically for establishing and maintaining foreign availability assessments.

9. Estimate prepared by: Mary Maginniss (225–7760).

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum, Assistant Director for Budget Analysis.)

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### Evaluation of Regulatory Impact

In accordance with subsection 5(a) of rule XXIX of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of this bill. The Committee believes that provisions in the bill which will reduce the number of separate export license applications required and expedite the review of applications by the Department of Commerce and other departments and agencies will reduce substantially the regulatory burden on United States exporters. The Committee notes, however, that provisions added to S. 737 in Committee markup which are intended to encourage more frequent imposition of monitoring or controls on exports of nonagricultural commodities in short supply situations may increase somewhat the regulatory burden on such exporters and other producers of the commodities affected. Overall the Committee believes the effect of S. 737 will be to reduce regulatory impact of export controls.

### Changes in Existing Law

Paragraph (4) of rule XXIX of the Standing Rules of the Senate provides that whenever a committee reports a bill or joint resolution repealing or amending any statute or part thereof, the committee report shall include a comparative textual analysis of statutory provisions repealed or amended and the bill or joint resolution. S. 737 as ordered reported by the Committee on Banking, Housing, and Urban Affairs would neither repeal nor amend the Export Administration Act of 1969, as amended, and the Mutual Defense Assistance Act of 1951 (Battle Act), as amended (22 U.S.C. 1611–1613d), but would supersede both statutes on October 1, 1979. The Committee has decided to treat S. 737 for the purpose of complying with paragraph (4) of rule XXIX as if S. 737 amended both statutes. On that basis, existing law which would be superseded and not incorporated into S. 737 is enclosed in brackets; matter appearing in S. 737 which does not appear in the existing statutes is printed in italic; existing law which would be superseded and would be incorporated verbatim in S. 737 is shown in roman with corrected references to sections, subsections, paragraphs, etc. in S. 737.

### [Export Administration Act of 1969 as Amended and Extended]
### *Export Administration Act of 1979*

AN ACT

[To provide for continuation of authority for regulation of exports]

*To provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the ability to engage in commerce.*

SHORT TITLE

Section 1. This Act may be cited as the "Export Administration Act of [1969."] *1979.*"

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FINDINGS

SEC. 2. The Congress makes the following findings:

(1) *The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.*

(2) *Exports contribute significantly to the balance of trade, employment, and production of the United States.*

[(1)] (*3*) The availability of certain materials at home and abroad varies so that the quantity and composition of [U.S.] *United States* exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

[(2)] (*4*) [The unrestricted export of materials, information, and technology] *Exports of goods or technology* without regard to whether they make a significant contribution to the military potential of [any other nation or nations] *individual countries or combinations of countries* may adversely affect the national security of the United States.

[(3)] (*5*) The [unwarranted] restriction of exports from the United States [has a] *can have* serious adverse effects on [our] *the* balance of payments[,] *and on domestic employment*, particularly when [export] restrictions applied by the United States are more extensive than [export restrictions] *those* imposed by [countries with which the United States has defense treaty commitments.] *other countries.*

[4](*6*) [The] Uncertainty of *export control* policy [toward certain categories of exports has curtailed] *can curtail* the efforts of American business [in those categories] to the detriment of the overall attempt to improve the trade balance of the United States[.] *and to decrease domestic unemployment.*

[(5)](*7*) Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

(*8*) *It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of technology (and goods which contribute significantly to the transfer of such technology) which could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.*

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States [both (A)] *to minimize uncertainties in export control policy and* to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest[.]. [and (B) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States.]

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(2) It is the policy of the United States to [use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand, (B) to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities, and (C) to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.] *restrict the ability to export only after full consideration of the impact on the economy of the United States and only to the extent necessary—*

*(A) to prevent the export of goods and technology which which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States;*

*(B) to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and*

*(C) to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.*

(3) It is the policy of the United States (A) to [formulate, reformulate, and] apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to [formulate] *encourage observance of* a [unified trade] *uniform export* control policy [to be observed by all such nations.] *by all nations with which the United States has defense treaty commitments.*

(4) Is is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—(A) to appose restrictive trade practices or boycott fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person; (B) to encourage and, in specified cases, to require United States persons engaged in the export of [articles, materials, supplies.] *goods and technology* or *other* information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; *and* (C) to foster international cooperation and development of international rules and institutions to assure reasonable access to world supplies.

(6) Is is the policy of the United States that the desirability of subjecting, or continuing to subject, particular [articles, materials, or supplies, including technical data] *goods or technology* or other information[,] to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and [qualified experts from] private industry.

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(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on [the] exports [of materials] from the United States [Provided, that] *No* action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territor[y]*ies* or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

*(9) It is the policy of the United States to cooperate with other nations with which the United States has defense treaty commitments in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States or to the security of those countries with which the United States has defense treaty commitments.*

AUTHORITY

[(b)](*a*) (1) [To effectuate] *To the extent necessary to carry out* the policies set forth in section 3 of this Act, the President, *by rule or regulation*, may prohibit or curtail the export[ation except under such rules and regulations as he shall prescribe] of any [articles, materials, or supplies, including technical data or any other information] *goods or technology, or for the purposes of section 5 information*, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. In curtailing the exportation of any articles, materials, or supplies to effectuate the policy set forth in section 3(2)[(A)](*C*) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.

(2)(A) In administering export controls for national security purposes as prescribed in section 3(2)[(C)](*A*) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist

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status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall [periodically] review *not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls*, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence. [The results of such review, together with the justification for United States policy in light of such factors, shall be reported to Congress not later than December 31, 1978, in the semiannual report of the Secretary of Commerce required by section 10 of this Act, and in every second such report thereafter.]

(B) Rules and regulations under this subsection *to carry out the policy set forth in section 3(2)(A) of this Act* may provide for denial of any request or application for authority to export [articles, materials, or supplies, including technical data or any other information,] *goods or technology* from the United States, its territories and possessions, [to] *which would make a significant contribution to the military potential of* any nation or combination of nations thretening the national security of the United States if the President determines that their export [w] could prove detrimental to the national security of the United States. *In administering export controls for national security purposes as prescribed in section 3(2)(A) of this Act, priority shall be given to preventing the effective transfer to countries to which exports are controlled for national security purposes of goods and technology critical to the design, development, production, or use of military systems which would make a significant contribution to the military potential of any nation or nations which could prove detrimental to the national security of the United States. The Secretary of Commerce in consultation with the Secretary of Defense, shall review and revise not less frequently than every hree years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, export controls maintained for national security purposes pursuant to this Act for the purpose of insuring that such controls are limited, to the maximum extent possible consistent with the purposes of this Act, to such militarily critical goods and technologies and the mechanisms through which they may be effectively transferred.*

*(C) Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended by the President in accordance with this paragraph subparagraph and subparagraph (D). Any such extension and any subsequent extension shall not be for a period of more than one year. When imposing, increasing, or extending export controls for foreign policy purposes pursuant to the authority provided by this Act, the President shall consider—*

*(i) alternative means to further the foreign policy purposes in question;*

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*(ii) the likelihood that foreign competitors will join the United States in effectively controlling such exports;*

*(iii) the probability that such controls will achieve the intended foreign policy purpose;*

*(iv) the effect of such controls on United States exports, employment, and production, and on the international reputation of the United States as a supplier of goods and technology;*

*(v) the reaction of other countries to the imposition or enlargement of such export controls by the United States; and*

*(vi) the foreign policy consequences of not imposing controls.*

*(D) Whenever the President imposes, increases, or extends export controls for foreign policy purposes pursuant to authority provided by this Act, he shall inform the Congress of his action within 30 days and, to the extent consistent with the national interest, make public a report specifying his conclusions with respect to each of the matters considered as provided in subparagraph (C) of this paragraph and indicating how such export controls will further significantly the foreign policy of the United States or fulfill its declared international obligations.*

(*E*) The President shall not impose export controls for foreign policy or national security purposes on the export from the United States of [articles, materials, or supplies, including technical data or other information,] *goods or technology* which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those produced in the United States, unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the *foreign policy or* national security of the United States. [The nature of such evidence shall be included in the semiannual report required by section 10 of this Act.] Whereas, in accordance with this paragraph, export controls are imposed for *foreign policy or* national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

SEC. 4. [(a)] (*b*)(1) *Except as otherwise provided in this Act,* [T]*the* Secretary of Commerce shall [institute such organizational and procedural changes in any office or division of] *reorganize* the Department of Commerce [which has heretofore exercised functions relating to the control of exports and continues to exercise such controls under this Act as he deterimnes are] *as* necessary to [facilitate and] effectuate the [fullest implementation of the] polic[y]*ies* set forth in this Act [with a view to promoting trade with all nations with which the United States is engaged in trade, including trade with (A) those countries or groups of countries with which other countries or groups of countries having defense treaty commitments with the United States have a significantly larger percentage of volume of trade than does the United States, and (B) other countries eligible for trade with the United States but not significantly engaged in trade with the United States. In addition, t]*The* Secretary *of Commerce* shall [review] *prepare and maintain* [any] *a* list of [articles, materials, or supplies, including technical data or other information,] *goods and*

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*technology* the export[ation] of which from the United States, its territories and possessions, [was heretofore] *is* prohibited or [curtailed with a view to making promptly such changes and revisions in such list as may be necessary or desirable in furtherance of the policy, purposes, and provisions of] *regulated pursuant to* this Act. [The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in the second quarterly report (and in any subsequent report with respect to actions taken during the preceding quarter) made by him to the Congress after the date of enactment of this Act pursuant to section 10.] *The Secretary shall review such list not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, in order to make promptly such changes and revisions as may be necessary or desirable in furtherance of the policies set forth in this Act. The Secretary shall include in each review an assessment of the availability from sources outside the United States, its territories and possessions, of goods and technology in significant quantities and comparable in quality to those items included on such list. In order to further effectuate the policies set forth in this Act, the Secretary shall establish within the Office of Export Administration a capability for monitoring and gathering information on the foreign availability of goods and technology subject to export control.*

(2) The Secretary of Commerce shall [use all practicable means available to him to keep the business sector of the Nation fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging the widest possible trade.] *keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of the business sector in order to obtain their views on export control policy and the foreign availability of goods and technology.*

*(c) (1) (A) To effectuate the policies set forth in this Act, the Secretary of Commerce shall establish at least the following three types of licenses in addition to such other types as the Secretary may deem appropriate:*

*(i) A validated license.*

*(ii) A qualified general license.*

*(iii) A general license.*

*(B) As used in this subsection—*

*(i) a "validated license" is a license authorizing the export of goods or technology pursuant to an application by an exporter in accordance with rules and regulations issued pursuant to this Act. A validated license may be required for the export of goods and technology subject to multilateral controls in which the United States participates or as determined pursuant to paragraph (2) of this subsection;*

*(ii) a "qualified general license" is a license authorizing the export to any destination of goods or technology, or a class of goods or technology, subject to the conditions contained in rules and regulations issued pursuant to this Act, including conditions*

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*pertaining to approval of the particular consignee and end-use of the goods or technology. The goods and technology subject to control by qualified general license shall be determined pursuant to paragraph (2) of this subsection; and*

*(iii) a "general license" is a license authorizing the export of a class of goods or technology without specific approval if the export is effected in accordance with the conditions contained in rules and regulations issued pursuant to this Act.*

*(2) To effectuate the policies set forth in section 3 of this Act, it is the intent of Congress that the use of validated licenses be limited to the greatest extent possible to the control of the export of goods and technology which are subject to multilateral controls in which the United States participates. To the extent that the President determines that the policies set forth in section 3 of his Act require the control of the export of other goods and technology, or more stringent controls than the multilateral controls, he will report to the Congress not later than 6 months after the date of enactment of this Act, and thereafter in each annual report, the reasons for the need to impose, or to continue to impose, such controls. It is further the intent of Congress that export controls which exceed the multilateral controls shall be effected to the greatest extent possible consistent with the purposes of this Act by means of qualified general licenses.*

*(3) Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall establish procedures for the approval of goods and technology that may be exported pursuant to a qualified general license.*

*(d) (1) (A)* [(g) (1) It is the intent of Congress that any export license application required under this Act shall be approved or disapproved within 90 days of its receipt. Upon the expiration of the 90-day period beginning on the date of its receipt, any export license application required under this Act which has not been approved or disapproved shall be deemed to be approved and the license shall be issued unless the Secretary of Commerce or other official exercising authority under this Act finds that additional time is required and notifies the applicant in writing of the specific circumstances requiring such additional time and the estimated date when the decision will be made.

(2) (A) With respect to any export license application not finally approved or disapproved within 90 days of its receipt as provided in paragraph (1) of this subsection, the applicant shall, to the maximum extent consistent with the national security of the United States, be specifically informed in writing of questions raised and negative considerations or recommendations made by any agency or department of the Government with respect to such license application, and shall be accorded an opportunity to respond to such questions, considerations, or recommendations in writing prior to final approval or disapproval by the Secretary of Commerce or other official exercising authority under this Act. In making such final approval or disapproval, the Secretary of Commerce or other official exercising authority under this Act shall take fully into account the applicant's response.

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(B) Whenever the Secretary determines that it is necessary to refer an export license application to any interagency review process for approval, he shall first, if the applicant so requests, provide the applicant with an opportunity to review any documentation to be submitted to such process for the purpose of describing the export in question, in order to determine whether such documentation accurately describes the proposed export.

(3) In any denial of an export license application, the applicant shall be informed in writing of the specific statutory basis for such denial.]

*All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations with respect to any such application shall be made by the Secretary, subject to the procedure provided in this subsection.*

*(B) It is the intent of Congress that a determination with respect to any export license application be made to the maximum extent possible by the Secretary without referral of such application to any other Government agency.*

*(C) To the extent necessary, the Secretary shall seek information and recommendations from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. These departments and agencies shall cooperate fully in rendering such information and recommendations.*

*(2) Within ten days after the date on which any export license application is received, the Secretary shall—*

*(A) send the applicant an acknowledgement of the receipt of the application and the date of the receipt;*

*(B) submit to the applicant a written description of the procedures required by this subsection, the responsibilities of the Secretary and of other agencies with respect to the application, and the rights of the applicant;*

*(C) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this subsection;*

*(D) determine whether it is necessary to submit the application to any other agency and, if such submission is determined to be necessary, inform the applicant of the agency or agencies to which the application will be referred; and*

*(E) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.*

*(3) In each case in which the Secretary determines that it is not necessary to submit an application to any other agency for its information and recommendations, a license shall be formally issued or denied within 90 days of the receipt of a properly completed application, unless additional time is required and the applicant specifically requests an extension.*

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*(4) In each case in which the Secretary determines that it is necessary to submit an application to any other agency for its information and recommendations, the Secretary shall, within 30 days of the receipt of a properly completed application—*

*(A) submit the application together with all necessary analysis and recommendations of the Department of Commerce concurrently to other appropriate agencies; and*

*(B) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be submitted to such other agencies with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.*

*(5) (A) Any agency to which an application is submitted pursuant to paragraph (4) shall submit to the Secretary, within 30 days after its receipt of the application, the information or recommendations requested with respect to such application. Except as provided in subparagraph (B), any such agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Secretary to have no objection to the approval of such application.*

*(B) If the head or acting head of any such agency notifies the Secretary before the expiration of the time period provided in subparagraph (A) for submission of its recommendations that more time is required for review by such agency, such agency shall have an additional 30-day period to submit its recommendations to the Secretary. If such agency does not so submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Secretary to have no objection to the approval of such application.*

*(6) (A) Within 90 days after receipt of other agency recommendations, as provided for in paragraph (5), the Secretary shall formally issue or deny a license, unless additional time is required and the applicant specifically requests an extension. In deciding whether to issue or deny a license, the Secretary shall take into account any recommendation of an agency advising on the application in question. In cases where the Secretary receives conflicting recommendations, the Secretary shall, within the 90 days provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.*

*(B) In cases where the Secretary receives questions or negative considerations or recommendations from other agencies advising on an application, the Secretary shall, to the maximum extent consistent with the national security or foreign policy of the United States, inform the applicant of the specific questions raised and any negative considerations or recommendations made by an agency, and shall accord the applicant an opportunity, before the final determination with respect to the appplication is made, to respond in writing to such questions, considerations, or recommendations.*

*(C) In cases where the Secretary has determined that an application should be denied, at the time of the formal denial, the applicant shall be informed, to the maximum extent consistent with the national*

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*security or foreign policy of the United States, of the specifi reasons for such denial.*

[(h)(1)] (7)(*A*) [The Congress finds that the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported to a country to which exports are restricted for national security purposes without an adequate and knowledgeable assessment being made to determine whether export of such goods and technology will make a significant contribution to the military potential of such country. It is the purpose of this subsection to provide for such an assessment and to authorize] *Notwithstanding any other provision of this subsection,* the Secretary of Defense *is authorized* to review any proposed export of *any* goods or technology to any [such] country *to which exports are controlled for national security purposes* and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

[2] (*B*) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the [export control office to which licensing requests are made,] *Secretary, and confirm in writing* the types and categories of transactions which should be reviewed by him [to carry out the purpose of this subsection.] *in order to make a determination referred to in subparagraph* (*A*). Whenever a license or other authority is requested for the export [of such goods or technology] to any country to which exports are [restricted] *controlled* for national security purposes, *of goods or technology within any such type or category,* [the appropriate export control office or agency to whom such request is made] *the Secretary* shall notify the Secretary of Defense of such request, and [such office] *the Secretary* may not issue any license or other authority pursuant to such request [prior to] *before* the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this sub[section]*paragraph* and, not later than 30 days after notification of the request shall—

> [A] (*i*) recommend to the President that he disapprove any request for the export of any goods or technology to any such country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;
>
> [B] (*ii*) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed] *notify the Secretary that he would recommend approval subject to specified conditions;* or
>
> [C] (*iii*) [indicate that he does not intend to interpose an objection to the export of such goods or technology.] *recommend to the Secretary that the export of goods or technology be approved.*

If the President notifies [such office or agency,] *the Secretary,* within 30 days after receiving a recommendation from the Secretary, that

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he disapproves such export, no license or other [authorization] *authority* may be issued for the export of such goods or technology to such country.

[(3) Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense pursuant to this section, the President shall submit to the Congress a statement indicating his decision together with the recommendation of the Secretary of Defense.

(4) As used in this subsection—

(A) the term 'goods or technology' means—

(i) machinery, equipment, capital goods, or computer software; or

(ii) any license or other arrangement for the use of any patent, trade secret, design, or plan with respect to any item described in clause (i); and

(B) the term 'export control office' means any office or agency of the United States Government whose approval or permission is required pursuant to existing law for the export of goods or technology.]

*(C) The Secretary shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of the paragraph, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this subsection.*

*(8) In any case in which an application, which has been finally approved under paragraph (4), (7), or (8) of this subsection, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such paragraphs, but the Secretary shall notify the applicant of the approval (and the date of such approval) of the application by the Secretary subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review.*

*(9) The Secretary and any agency to which any application is referred under this subsection shall keep accurate records with respect to all applications considered by the Secretary or by any such agency.*

[(c)](e)(1) To effectuate the policy set forth in section 3(2)[(A)](C) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any [article, material, or supply] *goods* (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy, [or] any sector thereof[.], *or any industry or substantial segment thereof.* Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act[.], *and shall include the gathering of data concerning the volume of exports indicated under all contracts providing for the export of such goods following the date of the filing of the petition under section 7(a)(1).* Information which the Secretary requires to be furnished in effecting

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such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section [7] *10(c)* of this Act.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each [article, material, or supply] *item* monitored, actual and anticipated exports, the destination by country, and the domestic and world wide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

[(i)] *(f)* In imposing export controls to effectuate the policy stated in section 3(2)[(A)](*c*) of this Act, the President's authority shall include but not be limited to, the imposition of export license fees.

[(e)](*g*) (1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, *as amended (30 U.S.C. 185)*, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to [section 28] *the requirements of section 203 of the Trans-Alaska Pipeline Authorization Act* (43 U.S.C. 1653) (except any such crude oil which (A) is [exchanged in similar quantity for convenience or increased efficiency of transporttation with persons or the government of an adjacent foreign state,] *is exported, for the purpose of effectuating an exchange in which the crude oil is exported to an adjacent foreign state to be refined and consumed therein, in exchange for the same quantity of crude oil being exported from that state to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection*, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions, [during the 2-year period beginning on the date of enactment of this subsection] unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil [—] *including exchanges—*

(i) will not diminish the total quantity or quality of petroleum [available to the United States,] *refined within, stored within, or legally committed to be transported to and sold within the United States;*

(ii) [will have a positive effect on consumer oil prices by decreasing the average crude oil acquisition costs of refiners,] *will, within 3 months following the initiation of such exports or exchanges, result in (a) acquisition costs to the refiners being lower than the acquisition costs such refiners would have to pay for the domestically produced crude oil in the absence of such an export or exchange and (b) that not less than 75 percent of the savings shall be reflected in reduced wholesale and retail prices of products refined from such imported crude oil;*

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(iii) will be made only pursuant to contract[s] which may be terminated if the [petroleum] *crude oil* supplies of the United States are interrupted, [or seriously] threatened, *or diminished;*

(iv) are [in] clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such finding to the Congress [as an energy action (as defined in section 551 of the Energy Policy and Conservation Act).] *and the Congress within 60 days thereafter passes a concurrent resolution of approval.*

[The Congressional review provisions of such section 551 shall apply to an energy action reported in accordance with this paragraph, except that for purposes of this paragraph, any reference in such section to a period of 15 calendar days of continuous session of Congress shall be deemed to be a reference to a period of 60 calendar days of continuous session of Congress and the period specified in subsection (f)(4)(A) of such section for committee action on a resolution shall be deemed to be 40 calendar days.]

*(3) Notwithstanding the foregoing provisions of this subsection or any other provision of law including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any foreign nation with whom the United States has entered into a bilateral international oil supply agreement prior to June 25, 1979, or to any foreign nation with whom the United States has entered into a multilateral supply arrangement pursuant to section 251(d) of the Energy Policy and Conservation Act, provided, that the President promptly notifies Congress of each such agreement.*

[(j)](*h*) Petroleum products refined in United States Foreign-Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)[(A)] (*C*) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports.

[(f)](*i*)(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in [clause (B) or (C) of paragraph (2) of section 3] *sections 3(2)(A) or (B)* of this Act. *The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity unless he has (i) given full consideration to the alternative of using the Commodity Credit Corporation to purchase such commodity and arrange sales to foreign governments in accordance with the provisions of the Com-*

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*modity Credit Corporation Charter Act so as to stabilize markets and maximize returns to agricultural producers, and (ii) determined that export controls are preferable to such use of the authority granted by the Commodity Credit Corporation Charter Act.*

(2) Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)[(A)] *(C)* of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds *(A)* that such commodities will eventually be exported, *(B)* that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, *(C)* such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and *(D)* that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

[(3) If the authority conferred by this section is exercised to prohibit or curtail the exportation of any agricultural commodity in order to effectuate the policies set forth in clause (A) or (B) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. In the computation of such 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.]

[(d)] *(j)* Nothing in this Act or the rules or regulations thereunder shall be construed to require authority or permission to export, except where required by the President to effect the policies set forth in section 3 of this Act.

[(e)] *(k)* The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate[.], *except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency whose head is not appointed by and with the advice and consent of the Senate.*

*(l) (i) Any United States firm, enterprise, or other nongovernmental entity which, for commercial purposes, enters into an agreement with an agency of a government in another country to which exports are restricted for national security purposes, which agreement cites an intergovernmental agreement calling for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report such agreement to the Secretary of Commerce.*

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*(2) The provisions of this subsection shall not apply to colleges, universities, or other educational institutions.*

*(3) The Secretary of Commerce is authorized to issue such rules and regulations as are necessary to implement the provisions of this subsection.*

*(m) The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the heads of other appropriate departments and agencies, shall be responsible for negotiations with other countries regarding their cooperation in restricting the export of goods and technologies whose export should be restricted pursuant to section 3(9) of this Act, as authorized under section 4(a)(1) of this Act, including negotiations on the basis of approved administration positions as to which goods and technologies should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.*

*(n) The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with a view toward reaching—*

*(A) an agreement to publish the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such list, and all changes thereto;*

*(B) an agreement to hold periodic meetings of such governments with high-level representation from such governments, for the purpose of providing guidance on export control policy issues to the Committee;*

*(C) an agreement to modify the scope of the export controls imposed by agreement of the Committee to a level accepted and enforced by all governments participating in the Committee; and*

*(D) an agreement on more effective procedures for enforcing the export controls agreed to pursuant to subparagraph (C).*

*The President shall report in detail, in each annual report required by section 12 of this Act, until the negotiations required by paragraph (1) are concluded, on the progress of such negotiations.*

*(o) In order to ensure that requirements for validated licenses and qualified general licenses are periodically removed as goods or technology subject to such requirements become obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. Any such goods or technology which no longer meet the performance levels established by the latest such increase shall be removed from the list established pursuant to subsection (b)(1) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other Government agency objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. Consideration shall also be given by the Secretary, where appropriate, to removing site visitation requirements for goods and technology which are removed from the above-mentioned list unless objections described in this subsection are raised.*

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[(k)](*p*) (1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

[(m) (1) Crime control and detection instruments and equipment shall be approved for export by the Secretary of Commerce only pursuant to a validated export license.

[(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand.

[(m) No article, material or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.]

FOREIGN BOYCOTTS

SEC. [4A.] *5.* (a) (1) For the purpose of implementing the policies set forth in section 3(5) (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

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(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms [after the expiration of 1 year following the date of enactment of the Export Administration Amendments of 1977] *on or after June 22, 1978*, other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

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(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country wtih respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, tradenamed, or similarly specifically identifiable products or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than 90 days after the date of enactment of this section and shall be issued in final form and become effective not later than 120 days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than 1 year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed 1 additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b)(1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under

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section 4[(b)](a) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3 (5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any [articles, materials, and supplies, including technical data and other information,] *goods or technology* to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) *The provisions of this section and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.*

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. [4B]. *6.* (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than [30] *thirty* days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

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(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) Whether denial would cause a unique hardship to the applicant which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity[.]*; and*

(2) The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the appellant.

*PETITIONS FOR MONITORING OR CONTROLS*

*Sec. 7. (a)(1) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes any material or commodity may transmit a written petition to the Secretary of Commerce requesting the imposition of export contracts, or the monitoring of exports, or both, with respect to such material or commodity.*

*(2) Each petition shall be in such form as the Secretary of Commerce shall prescribe and shall contain information in support of the action requested.*

*(b) Within 15 days of receipt of any petition described in subsection (a), the Secretary of Commerce shall cause to be published a notice in the Federal Register. The notice shall include (1) the name of the material or commodity which is the subject of the petition, (2) the Schedule B number of the material or commodity as set forth in*

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*the statistical Classification of Domestic and Foreign Commodities Exported from the United States, (3) whether the petitioner is requesting that control or monitoring, or both, be imposed with respect to the exportation of such material or commodity, and (4) provide that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Secretary of Commerce written data, views, on arguments, with or without opportunity for oral presentation. At the request of any person, the Secretary shall conduct public hearings with respect to the subject of the petition, in which event the 30-day period shall be extended to 45 days.*

*(c) Within 30 days after the end of the 30-day or 45-day period described in subsection (b), the Secretary of Commerce shall—*

*(1) determine whether to impose monitoring or controls or both on the exportation of such material or commodity; or*

*(2) publish in the Federal Register a detailed statement of the reasons for such determination.*

*(d) Within 15 days following a decision under subsection (c) to impose monitoring or controls on the exportation of a material or commodity, the Secretary shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such notice, and after considering any public comments, the Secretary shall publish and implement final regulations.*

*(e) The procedures and time limits set forth in this section shall take precedence over any review undertaken at the initiative of the Secretary.*

*(f) The Secretary shall have the authority to impose monitoring or controls on a temporary basis during the period following the filing of a petition under subsection (a) (1) and his determination under subsection (c) if he seems such action to be necessary to effectuate the policy set forth in section 3(2) (C) of this Act.*

*(g) The authority under this section shall not be construed to affect the authority of the Secretary of Commerce under any other provision of this Act.*

[CONSULTATION AND STANDARDS]

SEC. [5.] *8*(a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, any department, agency, or official making these determintions shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information. Consistent with considerations of national security, the President shall [from time to time] seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the [Federal Energy Administration] *Secretary of Energy* to determine whether, [monitoring under section 4 of this Act is warranted] *in order to effectuate the policy stated in section 3(2) (c) of this Act, monitoring or controls are necessary* with respect to exports of facilities, machin-

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ery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefication, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b)(1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2) Upon imposing quantitative restrictions on exports of any [article, material, or supply] *goods* to carry out the policy stated in section 3(2) [(A)] (*c*) of this Act, the Secretary of Commerce shall include in [his] *the* notice published in the *Federal Register* an invitation to all interested parties to submit written comments within fifteen days from the date of publication of the impact of such restrictions and the method of licensing used to implement them.

(c)(1) Upon written request by representatives of a substantial segment of any industry which produces [articles, materials and supplies, including technical data and other information,] *goods or technology* which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, *or whenever he deems appropriate to further the purposes of this Act*, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such [articles, materials, and supplies, including technical data and other information,] *goods or technology* which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies. No persons serving on any such committee who is representative of industry shall serve on such committee for more than four consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4[(d)](*e*) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such matters, shall be consulted with respect to questions involving (A) technical maters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any [articles, materials, and supplies,

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including technical data or other information,] *goods or technology* and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. [The Secretary shall include in each semiannual report required by section 10 of this Act an accounting of the consultation undertaken pursuant to this paragraph, the use made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees to carrying out the policies of this Act.] Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regutions prescribed by the Secretary of Commerce, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of two years, unless extended by the Secretary for additional periods of two years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security *and foreign policy*, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of [articles, materials, and supplies] *goods or technology* with respect to which that committee furnishes advice.

*(6) Whenever a technical advisory committee certifies to the Secretary of Commerce that goods or technology are available in fact from sources outside the United States in sufficient quantity and of comparable quality so as to render United States export controls ineffective in achieving the purposes of this Act, and provides adequate documentation for such certification, the Secretary of Commerce shall investigate and report to the technical advisory committee on whether the Secretary concurs with the certification. If the Secretary concurs, the Secretary shall submit a recommendation to the President who shall act in accordance with section 4(a)(2)(E) of this Act.*

VIOLATIONS

SEC. [6.] *9.* (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than [$25,000 or imprisoned not more than one year, or both.

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For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved] *five times the value of the exports involved* or $50,000, whichever is greater, or imprisoned not more than five years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or [$50,000,] *$100,000* whichever is greater, or imprisoned not more than [five] *ten* years, or both.

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2)(A) The authority [of] *under* this Act to suspend or revoke the authority of any United States person to export [articles, materials, supplies, or technical data or other information,] *goods or technology* may be used with respect to any violation of the rules and regulations issued pursuant to section [4A] *5* (a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section [4A] *5* (a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section [4A] *5* (a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 [of the], [U.S.] *United States* Code, no action for the refund of any such penalty may be maintained in any court.

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(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of Title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. [7.] *10.* (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports, or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) Except as otherwise provided by the third sentence of section [4A] *5* (b)(2) and by section [6] *9* (c)(2)(C) of this Act, [no department, agency, or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confiden-

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tial treatment is made by the person furnishing such information, unless the head of such department or agency] *information obtained under this Act, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary of Commerce* determines that the withholding thereof is contrary to the national interest. Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and [any] *all* information obtained *at any time* under this Act *or previous Acts regarding the control of exports*, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. [A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 10 after such action is taken.

(e) The Secretary of Commerce, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(c), shall review the rules and regulations issued under this Act and the lists of articles, materials, and supplies which are subject to export controls in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such rules and regulations, by simplifying or clarifying such lists, or by any other means. Not later than one year after the enactment of this subsection, the Secretary of Commerce shall report to Congress on the actions taken on the basis of such review to simplify such rules and regulations. Such report may be included in the semiannual report required by section 10 of this Act.]

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. [8.] *11.* (*a*) Except as provided in section [6] *9* (c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553–559, and 701–706, of [Title 5 U.S.] *title 5, United States* Code.

(b) *It is the intent of Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment be-*

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*fore taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of Congress that meaningful opportunity for public comment also be provided and that the regulation be re-issued in final form after public comments have been fully considered. The Secretary shall include in the annual report required by this Act a detailed accounting of the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of this subsection.*

[INFORMATION TO EXPORTERS]

[SEC. 9. In order to enable U.S. exporters to coordinate their business activities with the export control policies of the U.S. Government, the agencies, departments, and officials responsible for implementing the rules and regulations authorized under this Act, shall, if requested, and insofar as it is consistent with the national security, the foreign policy of the United States, the effective administration of this Act, and requirements of confidentiality contained in this Act—

(1) inform each exporter of the considerations which may cause his export license request to be denied or to be the subject of lengthy examination;

(2) in the event of undue delay, inform each exporter of the circumstances arising during the Government's consideration of his export license application which are cause for denial or for further examination;

(3) give each exporter the opportunity to present evidence and information which he believes will help the agencies, departments, and officials concerned to resolve any problems or questions which are, or may be, connected with his request for a license; and

(4) inform each exporter of the reasons for a denial of an export license request.]

[REPORT]

[SEC. 10.(a) The head of any department or agency, or other official exercising any functions under this Act, shall make a semiannual report [1] to the President and to the Congress of his operations hereunder.

(b)(1) The report required for the first quarter of 1975 and every report thereafter shall include summaries of the information contained in the reports required by section 4(c)(2) of this Act, together with an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for articles, materials, or supplies subject to monitoring under this Act, (B) the worldwide supply of such articles, materials and supplies, and (C) actions taken by other nations in response to such shortages or increased prices.

(2) Each such report shall also contain an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970. (B) the worldwide supply of such commodities, and (1) actions

[1] Frequency of reporting changed from quarterly by Public Law 93–608 of January 2, 1975.

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being taken by other nations in response to such shortages or increased prices. The Secretary of Agriculture shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce in making such analysis.

(c) Each semiannual report shall include an accounting of—

(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4(a) of this Act;

(2) any changes in the exercise of the authorities of section 4(b) of this Act;

(3) any delegations of authority under section 4(e) of this Act;

(4) the disposition of export license applications pursuant to section 4(g) and (h) of this Act;

(5) consultations undertaken with technical advisory committees pursuant to section 5(c) of this Act;

(6) violations of the provisions of this Act and penalties imposed pursuant to section 6 of this Act; and

(7) a description of actions taken by the President and the Secretary of Commerce to effect the policies set forth in section 3(5) of this Act.]

ANNUAL REPORT

*Sec. 12. (a) The Secretary of Commerce shall make an annual report to the President and to the Congress on the implementation of this Act.*

*(b) Each annual report shall include an accounting of—*

*(1) actions taken by the President and the Secretary of Commerce to effect the anti-boycott policies set forth in section 3 (5) of this Act;*

*(2) organizational and procedural changes instituted and any reviews undertaken in furtherance of the policies set forth in this Act;*

*(3) efforts to keep the business sector of the Nation informed about policies and procedures adopted under this Act;*

*(4) any changes in the exercise of the authorities of section 4 (a) of this Act;*

*(5) the results of review of United States policy toward individual countries called for in section 4 (a) (2) (A);*

*(6) the results, in as much detail as may be included consistent with the natinal security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 4 (a) (2) (3);*

*(7) actions taken pursuant to section 4 (b) (1), including changes made in control lists and assessments of foreign availability;*

*(8) evidence demonstrating a need to impose export controls for national security or foreign policy purposes in the face of foregin availability as set forth in section 4 (a) (2) (E);*

*(9) the information contained in the reports required by section 4 (e) (2) of this Act, together with an analysis of—*

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*(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;*

*(B) the worldwide supply of such commodities; and*

*(C) actions being taken by other nations in response to such shortages or increased prices;*

*(10) delegations of authority by the President as provided for under section 4 (k) of this Act;*

*(11) the progress of negotiations under section 4(n) of this Act;*

*(12) the number and disposition of export license applications taking more than 90 days to process pursuant to section 4 (c) of this Act;*

*(13) consultations undertaken with technical advisory committees pursuant to section 8 (c) of this Act, the use made of advice given, and the contribution such committees made in carrying out the policies of this Act;*

*(14) violations of the provisions of this Act and penalties imposed pursuant to this Act; and*

*(15) any revisions to reporting requirements prescribed in section 10 (d).*

*(c) The heads of other involved departments and agencies shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce to complete the annual reports.*

DEFINITIONS

SEC. [11.] *13.* As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof; and

(2) the term "United States persons" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

*(3) the term "goods" means any article, material, supply or manufactured product, including inspection and test equipment, and excluding technical data; and*

*(4) the term "technology" means the information and know-how that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software, and technical data, but not the goods themselves.*

EFFECTS ON OTHER ACTS

SEC. [12.] *14.* (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby super-

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seded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section [414 of the Mutual Security Act of 1954 (22 U.S.C. 1934).] *38 of the Arms Export Control Act (22 U.S.C. 2778).*

*(C) On October 1, 1979, the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1611–1613(d), is superseded.*

AUTHORIZATION OF APPROPRIATIONS

SEC. [13.] *15.* (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, [1977] *1980*, unless previously and specifically authorized by legislation.

(b) There [is hereby] *are* authorized to be appropriated to the Department of Commerce [$14,033,000] *$8,000,000* (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal [years 1978 and 1979] *year 1980* to carry out the purposes of this Act[.], *of which $1,250,000 shall be available only for purposes of establishing and maintaining the capability to make foreign availability assessments called for by section 4(b)(1).*

EFFECTIVE DATE

SEC. [14.] *16.* (a) This Act takes effect upon the expiration of the Export [Control Act of 1949.] *Administration Act of 1969.*

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), *or the Export Administration Act of 1969* shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. [15.] *17.* The authority granted by this Act terminates on September 30, [1979] *1983*, or upon any prior date which the [Congress by concurrent resolution or the] President by proclamation may designate.

MUTUAL DEFENSE ASSISTANCE CONTROL ACT OF 1951, AS AMENDED (BATTLE ACT)

Mutual Defense Assistance Control Act of 1951, Public Law 82–213 [H.R. 4550], 65 Stat. 644, approved October 26, 1951, as amended by Public Law 87–195 [S. 1983], 75 Stat. 424, 463, approved September 4, 1961

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AN ACT TO provide for the control by the United States and cooperating foreign nations of exports to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Mutual Defense Assistance Control Act of 1951."

## TITLE I—WAR MATERIALS

SEC. 101. The Congress of the United States, recognizing that in a world threatened by aggression the United States can best preserve and maintain peace by developing maximum national strength and by utilizing all of its resources in cooperation with other free nations, hereby declares it to be the policy of the United States to apply an embargo on the shipment of arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items of primary strategic significance used in the production of arms, ammunition, and implements of war to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, in order to (1) increase the national strength of the United States and of the cooperating nations; (2) impede the ability of nations threatening the security of the United States to conduct military operations; and (3) to assist the people of the nations under the domination of foreign aggressors to reestablish their freedom.

It is further declared to be the policy of the United States that no military, economic, or financial assistance shall be supplied to any nation unless it applies an embargo on such shipments to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination.

This Act shall be administered in such a way as to bring about the fullest support for any resolution of the General Assembly of the United Nations, supported by the United States, to prevent the shipment of certain commodities to areas under the control of governments engaged in hostilities in defiance of the United Nations.

SEC. 102. Responsibility for giving effect to the purposes of this Act shall be vested in the person occupying the senior position authorized by subsection (e) of section 406 of the Mutual Defense Assistance Act of 1949, as amended, or in any person who may hereafter be charged with principal responsibility for the administration of the provisions of the Mutual Defense Assistance Act of 1949. Such person is hereinafter referred to as the "Administrator."

SEC. 103. (a) The Administrator is hereby authorized and directed to determine within thirty days after enactment of this Act after full and complete consideration of the views of the Departments of State, Defense, and Commerce; the Economic Cooperation Administration; and any other appropriate agencies, and notwithstanding the provisions of any other law, which items are, for the purpose of this Act,

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arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and those items of primary strategic significance used in the production of arms, ammunition, and implements of war which should be embargoed to effectuate the purposes of this Act: *Provided*, That such determinations shall be continuously adjusted to current conditions on the basis of investigation and consultation, and that all nations receiving United States military, economic, or financial assistance shall be kept informed of such determinations.

(b) All military, economic, or financial assistance to any nation shall, upon the recommendation of the Administrator, be terminated forthwith if such nation after sixty days from the date of a determination under section 103(a) knowingly pedrmits the shipment to any nation or combination of nations threatened the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, of any item which he has determined under section 103(a) after a full and complete investigation to be included in any of the following categories: Arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items of primary strategic significance used in the production of arms, ammunition, and implements of war: *Provided*, That the President after receiving the advice of the Administrator and after taking into account the contribution of such country to the mutual security of the free world, the importance of such assistance to the security of the United States, the strategic importance of imports received from countries of the Soviet bloc, and the adequacy of such country's controls over the export to the Soviet bloc of items of strategic importance, may direct the continuance of such assistance to a country which permits shipments of items other than arms, ammunition, implements of war, and atomic energy materials when unusual circumstances indicate that the cessation of aid would clearly be detrimental to the security of the United States: *Provided further*, That the President shall immediately report any determination made pursuant to the first proviso of this section with reasons therefor to the Appropriations and Armed Services Committees of the Senate and of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives, and the President shall at least once each quarter review all determinations made previously and shall report his conclusions to the foregoing committees of the House and Senate, which reports shall contain an analysis of the trade with the Soviet bloc of countries for which determinations have been made.

SEC. 104. Whenever military, economic, or financial assistance has been terminated as provided in this Act, such assistance can be resumed only upon determination by the President that adequate measures have been taken by the nation concerned to assure full compliance with the provisions of this Act.

SEC. 105. For the purposes of this Act the term "assistance" does not include activities carried on for the purpose of facilitating the procurement of materials in which the United States is deficient.

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## TITLE II—OTHER MATERIALS

SEC. 201. The Congress of the United States further declares it to be the policy of the United States to regulate the export of commodities other than those specified in title I of this Act to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination, in order to strengthen the United States and other cooperating nations of the free world and to oppose and offset by nonmilitary action acts which threaten the security of the United States and the peace of the world.

SEC. 202. The United States shall negotiate with any country receiving military, economic, or financial assistance arrangements for the recipient country to undertake a program for controlling exports of items not subject to embargo under title I of this Act, but which in the judgment of the Administrator should be controlled to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countres under its domination.

SEC. 203. All military, economic, and financial assistance shall be terminated when the President determines that the recipient country (1) is not effectively cooperating with the United States pursuant to this title, or (2) is failing to furnish to the United States information sufficient for the President to determine that the recipient country is effectively cooperating with the United States.

## TITLE III—GENERAL PROVISIONS

SEC. 301. All other nations (those not receiving United States military, economic, or financial assistance) shall be invited by the President to cooperate jointly in a group or groups or on an individual basis in controlling the export of the commodities referred to in title I and title II of this Act to any nation or combination of nations threatening the security of the United States, including the Union of Soviet Socialist Republics and all countries under its domination.

SEC. 302. The Administrator with regard to all titles of this Act shall—

(a) coordinate those activities of the various United States departments and agencies which are concerned with security controls over exports from other countries;

(b) make a continuing study of the administration of export control measures undertaken by foreign governments in accordance with the provisions of this Act, and shall report to the Congress from time to time but not less than once every six months recommending action where appropriate; and

(c) make available technical advice and assistance on export control procedures to any nation desiring such cooperation.

SEC. 303. The provisions of subsection (a) of section 403, of section 404, and of subsections (c) and (d) of section 406 of the Mutual Defense Assistance Act of 1949 (Public Law 329, 81st Congress) as amended, insofar as they are consistent with this Act, shall be applicable to this Act. Funds made available for the Mutual Defense Assist-

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ance Act of 1949, as amended, shall be available for carrying out this Act in such amounts as the President shall direct.

SEC. 304. In every recipient country where local currency is made available for local currency expenses of the United States in connection with assistance furnished by the United States, the local currency administrative and operating expenses incurred in the administration of this Act shall be charged to such local currency funds to the extent available.

SEC. 305. There is hereby authorized to be appropriated to the Secretary of State such sums as may be necessary from time to time to administer and carry out the objectives of this Act.]

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## ADDITIONAL VIEWS OF SENATOR STEVENSON

The Committee has narrowly decided to place severe restrictions on the export of Alaskan oil. About 400,000 barrels per day of north slope oil cannot be refined and utilized on the West Coast by virtue of the absence of refinery capacity to handle that much heavy, sulfurous crude. To transport this oil to Gulf Coast refineries which can use it requires transshipment of the crude through the Panama Canal, adding about two dollars per barrel in transportation costs to the landed price. Meanwhile, further Alaskan production is constrained and development of California fields inhibited.

Several long-range solutions have been proposed, including west-east pipelines and large investments in increased refining capacity on the West Coast. But these choices are fraught with uncertainties and environmental problems and, above all, are long-range. Limited swaps are the only effective way to increase oil production from Alaska in the short term.

In an ideal world, the two dollars per barrel transportation savings would be passed on, at least in part, to consumers. This was the intent of the original export restriction, which I helped to draft and which required, among other things, that the export have positive effect on consumer prices by decreasing the average crude oil acquisition cost of refiners. But that is not going to happen. Deputy Secretary O'Leary, in his testimony before the Subcommittee on International Finance, made it clear that the Administration believes that the current net-back to Alaskan producers is too low, and that the transportation savings should accrue to them as additional production incentive. Decontrol, by Presidential choice this year and the expiration of existing control authority in 1981, will make it impossible for the Administration to do that which it doesn't want to do—pass a part of the costs savings on to consumers and thereby permit the swaps. I believe the Administration is wrong; I also believe that increased Alaska production from swaps is in the national interest.

Export/exchanges will reduce balance of payments deficits, increase tax revenues from greater producer income and provide additional incentive for increased production and leasing in Alaska and on the West Coast. Estimates of increased domestic production from the swaps range as high as one million barrels. The Trans-Alaskan pipeline alone is running 800,000 barrels per day under its design capacity, in no small part because of the absence of a market.

The underlying reason for the existing situation is, of course, the location of the pipeline; had it been planned to terminate in the Midwest, as some of us argued at the time, a ready-made market would exist at the pipeline's end. But that is not the case, and we must deal with the facts as they are rather than as we wish them to be. The proposed swaps among the U.S., Japan, Mexico and Indonesia would



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allow us to make the best of a bad situation. To deny the Administration the flexibility to make such arrangements when they are in our national interest is to ignore the realities of the world oil situation, now and for the next decade. I have not been an advocate of increased oil company revenues as the solution to our energy problems. But in this case, it would be far better to effect savings for the producers, end the glut, and enhance Alaskan recovery and world oil supplies than to leave the oil in the ground. That will be the effect of the Committee's decision, unless the full Senate realizes that half a loaf is better than none.

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## ADDITIONAL VIEWS OF SENATORS GARN, TOWER, ARMSTRONG, KASSEBAUM, AND LUGAR

It is particularly unfortunate that the Committee decided (by a narrow 8–7 margin) to place such tight controls on the export of Alaskan oil. It is but another example of the difficulty of making intelligent public policy in times of severe stress.

At the hearings which we held on the subject of the export of Alaskan oil, an overwhelming case was made for providing the Administration with the flexibility necessary to allow for swaps on exports of oil, when necessary to deal with short-run bottlenecks in supply lines or when it could be shown that long-run economies might be realized from the shortening of supply lines and the increase in production. The ultimate irony is that at a time of mile-long lines at gas stations, occurring for the second time in a five-year period, our Committee has taken an action which is likely to lead to a slowdown in exploration, production, and additional recovery from oil fields in Alaska and the West Coast.

It would be useful to review the facts presented to this Committee. At the present time a significant surplus of oil exists on the West Coast due to a combination of a lack of refinery capacity to handle the high viscosity, sulfurous crude oil produced on the north slope of Alaska, and the absence of a West to East pipeline with the capacity to carry that oil to Gulf Coast or Midwestern refineries capable of processing the excess. The majority of the 400,000 barrel per day excess is shipped by "Jones Act" tankers to the Panama Canal. There it is off-loaded into smaller shuttle tankers for its trip through the Panama Canal to Gulf Coast refineries. All of this adds approximately $2 in transportation costs to the price of a barrel of oil landed on the Gulf Coast. Currently, all of the available "Jones Act" tankers are in use on this and other routes, so there is little slack in the system for significant increases in oil shipments from Alaska to the Gulf. Future construction of such tankers is clouded by the uncertainty which surrounds the construction of West-East pipelines.

All of this means that Prudhoe Bay production is maintained at 1.2 million barrels per day, although the maximum design capacity of the Trans-Alaskan pipeline is 2 million barrels per day. The production level may be raised to 1.4 million barrels per day this year because of the particularly tight world oil market. But long-term increases depend on either the construction of new East-West pipelines or the arrangement of oil swaps which, in effect, would allow the heavy, sulfurous Alaskan oil to be shipped to Japan, freeing sweet, light Mexican or Indonesian oil to be shipped to American refineries as an exchange.

Obviously, the preferable solution would be for our nation to expedite construction of new pipelines combined with the retrofitting of West Coast refineries to handle Alaskan oil. But both of these



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enterprises are multi-billion-dollar endeavors, and both could be blocked for years—if not indefinitely—by environmental regulations and lawsuits. Meanwhile, our nation is running a trade deficit which runs into the tens of billions of dollars, due for a large part to oil imports. At the same time there is critical national demand for new oil production and exploration. The most likely new fields are in Alaska and off the West Coast of California. But both of these potential fields are not likely to be fully exploited as long as there exists an artificial oil glut on the West Coast.

A logical solution to this problem could be to allow oil swaps among the U.S., Japan, Mexico, and Indonesia. Such swaps should allow almost immediate increases in production in Alaska and create incentives for further exploration both in Alaska and on the West Coast, since the oil glut would be eliminated, and sweet, usable oil could be brought to refineries on the West, East, and Gulf Coasts. An additional benefit of this arrangement would be that (at current prices) the United States could eliminate as much as $4 billion of its foreign exchange deficit since, as much as 800,000 barrels of oil would be bartered rather than bought.

These are options which the Administration ought to have for the future. Indeed, the swap arrangements probably would not have been barred by the current law, but they were never proposed. The amendment reported by this Committee, for all intents and purposes, would prevent oil swaps on exports; because it would be virtually impossible in the age of rising oil prices to provide absolute savings for the consumer. The most that can be expected is that increased exploration and production would result and that America's oil import expenses would be reduced. But this is no mean accomplishment, and its potential loss is significant.

What the Committee has done may deter full utilization of America's oil reserves in Alaska and the West Coast for the next decade. In the process our nation will have lost tens of billions of dollars in potential foreign exchange needlessly going to pay for oil which might otherwise have been exchanged or bartered. Perhaps all that is "necessary," as the majority argued during the mark-up, to create incentives for West to East pipelines, but it is more likely that such construction depends on environmental regulations and court actions, and the Committee's restriction will fail to achieve their intended result.

NANCY LANDON KASSEBAUM.
JOHN TOWER.
BILL ARMSTRONG.
JAKE GANN.
DICK LUGAR.

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